

**9097 FLATS CONDOMINIUMS
PURCHASE AND SALE AGREEMENT**

THIS IS A LEGAL INSTRUMENT, IF NOT UNDERSTOOD, LEGAL, TAX OR OTHER COUNSEL SHOULD BE CONSULTED PRIOR TO SIGNING.

Date: _____, 202__.

THIS PURCHASE AND SALE AGREEMENT ("Agreement"), is made and entered into by and between White Pine Residences, LLC, a Colorado limited liability company ("Seller"), whose address is 9233 Park Meadows Drive, Suite 219, Lone Tree, CO 80124 and

("Buyer"), presently residing at:

City: _____

State: _____ Zip Code: _____

Telephone: work: _____ home: _____ cell: _____

Email: _____

1. **Property.** Buyer hereby agrees to purchase from Seller, and Seller agrees to sell to Buyer, pursuant to the terms and conditions of this Agreement and any addenda, exhibits or riders attached hereto (which are hereby incorporated into and made a part of this Agreement), that certain real property located in the 9097 Flats Condominiums (the "Project") in Summit County, State of Colorado, described as follows:

UNIT _____, 9097 FLATS CONDOMINIUMS, according to the CONDOMINIUM MAP OF 9097 FLATS CONDOMINIUMS, and as defined by the CONDOMINIUM DECLARATION OF THE 9097 FLATS CONDOMINIUMS, to be recorded in the Office of the Clerk and Recorder of Summit County, Colorado,

also known as the following street address _____ No. _____, Frisco, CO 80443,

and together with the exclusive right to use Parking Space No(s).

and together with all interests, rights and benefits appurtenant to the ownership the above-described condominium unit (collectively, the "Condominium Unit"). Buyer acknowledges and understands the Condominium Unit is a Condominium Unit as defined by Colorado law and consists of a Unit and Common Elements as described in the Condominium Declaration and Condominium Map to be recorded prior to the completion of the Closing.

Buyer does does not represent that Buyer will occupy the Condominium Unit as Buyer's principal residence.

Seller and Buyer may be referred to in this Agreement individually as a "party" or collectively as "parties".

2. **Purchase Price.** The purchase price for the Condominium Unit shall be \$_____ ("Purchase Price"). The Purchase Price for the Condominium Unit shall be paid by Buyer to Seller as follows:

a. **Earnest Money.**

(1) Concurrently with the execution of this Agreement, Buyer shall deposit with Land Title Guarantee Company of Summit County (the Title Company) a sum of Fifteen Thousand Dollars (\$15,000.00) as the Initial Earnest Money. The Initial Earnest Money shall be refundable to Buyer in the event Buyer delivers written notice of cancellation of this Agreement within fifteen (15) days after the date hereof. In the event written notice of cancellation is timely given, the Initial Earnest Money shall be refunded to Buyer. **In the event written notice of cancellation is not given within fifteen (15) days after the date hereof, the Initial Earnest Money shall become non-refundable except in the event of default by Seller or as otherwise specifically provided in this Agreement.**

(2) Fifteen (15) days after the Buyer shall deposit with the Title Company a sum of _____ as Additional Earnest Money (this earnest money payment shall equal ten percent (10%) of the Purchase Price). **Upon payment of the Additional Earnest Money or any portion thereof the Additional Earnest Money payment shall become non-refundable except in the event of the default of Seller or as may otherwise specifically provided in this Agreement.**

The Initial Earnest Money and the Additional Earnest Money will be collectively referred to herein as the "Earnest Money." The Earnest Money shall be held by the Title Company until the Closing or other disposition in accordance with this Agreement.

b. **Balance/Cash at Closing.** Buyer shall pay the balance of the Purchase Price (which shall be the Purchase Price less Earnest Money paid by Buyer), plus any other amounts payable by Buyer to Seller under this Agreement), as may be adjusted pursuant to the provisions of this Agreement, plus all applicable closing costs (including a closing fee to the title insurance company closing this transaction and any administrative fees) shall be paid in immediately available funds in a form acceptable to the Title Company and Seller, at the time of closing.

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

d. **No Loan Contingency.** Buyer hereby acknowledges, represents and warrants to and for the benefit of Seller that it has previously obtained a pre-qualification letter for purchase money financing for its acquisition of the Condominium Unit hereinafter referred to as the "Unit Financing"). **Concurrently with the execution of this Contract, Buyer is delivering to Seller an updated pre-qualification or pre-approval**

letter for the Unit Financing. Buyer further understands, acknowledges and agrees that its obligation to purchase the Condominium Unit in accordance with the terms and provisions hereof is **not contingent** upon its ability to obtain the Unit Financing or any other financing for its acquisition of the Residential Unit. No later than sixty (60) days prior to the projected Completion Date (as hereinafter defined), Buyer shall provide Seller with either an unconditional loan commitment letter for the Unit Financing in form and substance reasonably acceptable to Seller, or evidence, in form and substance reasonably acceptable to Seller, that Buyer has adequate funds to pay the Purchase Price, in cash, at Closing if Buyer is paying cash for the Property. In the event Buyer is unable to deliver to Seller an unconditional loan commitment letter for the Unit Financing in form and substance reasonably acceptable to Seller, or evidence in form and substance reasonably acceptable to Seller that Buyer has adequate funds to pay the Purchase Price, in cash, at Closing if Buyer is paying cash for the Property, Buyer shall be deemed in material breach of its obligations hereunder and Seller, at its sole option and election, may elect to terminate this Contract and retain the Earnest Money as liquidated damages pursuant to Section 25 of this Agreement.

e. **Purchase Price Adjustment.** The Purchase Price has been calculated based on the current prices and current availability of building materials. However, the markets for some building materials, particularly steel and lumber, are volatile and sudden price increases have occurred and may occur in the future. Seller agrees to use its commercially reasonable efforts to obtain advantageous prices from subcontractors and material suppliers. To compensate for such risk, the parties agree that if a significant delay or significant price increase of materials, equipment or energy shall occur during the construction of the Condominium Unit, resulting in an increase cost of construction, Seller may seek an equitable adjustment to the Purchase Price. In this regard, if Seller seeks an adjustment/increase to the Purchase Price due to a significant delay or significant price increase of materials equipment or energy, Seller will give Buyer written notice thereof not less than one hundred eighty (180) days prior to the date anticipated for Closing. Buyer will thereafter have fifteen (15) days to elect by written notice to Seller to: (i) agree to the Purchase Price adjustment and proceed to Closing at the adjusted Purchase Price; or (ii) terminate this Agreement, in which event the Earnest Money will be returned to Buyer and the parties will have no further obligation to each other.

3. **Construction Plans/Square Footage.** The Condominium Unit shall be constructed and completed in substantial conformance with the plans for the Project, including the building in which the Condominium Unit is located, prepared by Seller's architect Allen Guerra Architecture (the "Plans"). A copy of the Plans is available for review by Buyer at the offices of the listing broker, Slifer Smith Frampton, located at 117 S. Main Street, Breckenridge, CO 80424, during normal business hours by appointment.

Seller reserves the right, at its option, to substitute or change fixtures, equipment and materials, and make other minor modifications to the Plans as Seller determines, provided that all changes shall be of equal or better value as previously approved by Buyer. It is understood and agreed that Seller is not building the Project or the Condominium Unit to the precise specifications or designs of any model residence, marketing display, Seller's marketing materials or to the specifications of Buyer. Any model dwelling unit, 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 Project or the Condominium Unit in exact accordance with any such model dwelling unit, marketing display, Seller's marketing or other materials or to the specifications of Buyer. Statements of approximate square footages of the Condominium Unit, as well as of the common elements and limited common elements (if any) located within the Project, may be made in the Plans. Buyer acknowledges, however, that square footage calculations may be made in a variety of manners, and as long as the Condominium Unit is constructed substantially in accordance with the Plans, Buyer will have no right to rescind this Agreement, nor will Buyer be entitled to any claim for breach of this Contract or adjustment of the Purchase Price, on account of alleged discrepancies in square footage calculations. For example, the architectural method measures square footage from the outside edge of the exterior walls to the mid-point of the interior walls and is often used as the measurement in architectural plans. BUYER HEREBY

ACKNOWLEDGES THAT BUYER HAS REVIEWED AND ACCEPTED THE PLANS.

Buyer acknowledges and agrees that Seller reserves the right to make changes or substitutions in the construction of the Condominium Unit and the Project: (i) as may be required, authorized, or approved by any governmental entities or agencies having jurisdiction or approval rights over or pertaining to the Condominium Unit or the Project; or (ii) as Seller may deem appropriate provided such change does not impair the quality of construction.

4. **Possession of the Property.** Seller retains the right to exclusive possession of the Condominium Unit until closing and delivery of the deed to the Buyer. Condominium Unit Buyer shall not exercise any act of possession of the Property, until the closing has been completed and the deed delivered to the Buyer.

5. **Warranty Program.** Buyer acknowledges and agrees that Buyer has received and thoroughly reviewed a copy of the Seller's Limited Warranty Agreement attached hereto as *Exhibit A* and incorporated herein by this reference (the "Limited Warranty") that states the terms and provisions of the warranty to be made and given by Seller to Buyer pursuant to Seller's warranty program and that are to be signed by Seller and Buyer at closing. **Buyer agrees to sign the Limited Warranty at Closing as part of the documents required to be signed by the Buyer at Closing.** The Seller's Warranty shall be in lieu of all other warranties and Buyer shall not receive any other warranty of merchantability, habitability, suitability for habitation or fitness for a particular purpose, expressed or implied and the Buyer hereby waives and relinquishes all warranties relating to the Property, both expressed and implied, other than those specifically set forth in Seller's Warranty and Warranty Standards. The Warranty herein shall not cover any damages to the Condominium Unit as the result of ordinary wear and tear, natural disasters, changes in grade, elevations or structure caused by the Buyer or any negligent acts by Buyer or Buyer's agents or any imperfections beyond the Seller's control or that occur from natural and ordinary change in materials properly used in accordance with the terms of this Agreement. The provisions of this Section 5 of this Agreement shall survive the closing and conveyance of title without further reference thereto.

6. **9097 Flats Condominium Association.** Buyer understands and agrees that the 9097 Flats Condominium Association (the "Association"), a Colorado nonprofit corporation, will be created for the purposes, among other things, of administering and maintaining the common elements and enforcing the Condominium Declaration of 9097 Flats Condominiums (the "Declaration"), to be recorded, which will govern and regulate the 9097 Flats Condominiums located at ^{9233 Park Meadows Dr} ~~STE 219 Lone Tree, CO 80124~~ Buyer understands and agrees to comply with the terms, conditions and obligations set forth in the Declaration, as they may be amended from time to time, including Buyer's obligation to pay Buyer's proportionate share of the common expense assessments and other assessments as provided in the Declaration.

Buyer acknowledges the owner of the Condominium Unit is liable to the Association to pay a monthly Common Expense Assessment that is currently estimated to be payable at \$ _____ per month and is payable to the Association.

This monthly assessment amount is an estimate only and could change prior to Closing based on additional information obtained by Seller and the Association regarding costs, reserve requirements and operational expenses. Based on the closing date a prorated amount of the current month's common expense assessments and the following month's common expense assessment will be collected from and paid for by Buyer as part of the closing costs. It is further agreed that, at the time of closing, a working capital fund contribution in the amount of two (2) months' Common Expenses Assessments in effect as of the date of Closing will be collected from Buyer. This is a working capital contribution only as specified in the Declaration and is not to be construed as an advance payment of any assessments that are otherwise due or will become due pursuant to the Declaration. The working capital contribution is not refundable upon the future sale of the Condominium Unit by the Buyer as per the terms of the Declaration.

7. **Insulation of Premises.** Buyer hereby acknowledges pursuant to Section 460.16 of the Federal Trade Commission Regulations regarding labeling and advertising of home insulation, that the following types, thickness and R-Values of insulation shall be installed in the following locations of the Condominium Unit at the time of closing:

Location	R-Value	Type of Insulation
Floors above garages	R-38	-
Exterior Walls of Building	R-23	Blow in blanket system
Perimeter Walls between units	R-15 each side	Batts
Interior Walls	R-11 at all interior walls	Batts
Mid-floors between units	R-19	5 1/2" Batt Insulation
Vaulted Ceilings	NA	
Garage ceilings under living above, cantilevers and roof	R-49 (total)	Hybrid system; 4 1/2" spray foam (R-30) with 5 1/2" batt (R-19) for a R-49

R value means 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 of this insulation and solely relies upon the R value data provided by the manufacturer thereof. Seller reserves the right to substitute a different type of insulation and/or insulation of a different thickness and/or insulation with a different R value in the Property, provided however, that Seller shall provide Buyer with a disclosure sheet setting forth the type, thickness, and R value of the insulation that will be installed in each part of the Condominium Unit as soon as this information is available to Seller. If any changes are made from above, the total R- value for the building in which the Condominium Unit is located and the specific Condominium Unit will meet or exceed the minimum model energy code requirements for the jurisdiction of the governing authority of where the Condominium Unit is located.

8. **Noises/Sounds--Condominium Units.** Where condominium units are built either above or below each other, or side by side, it is normal to experience some transmissions of sound between those units from music, walking and other movements by people and objects on uncarpeted floors, water traveling in drains, opening and closing of doors, cabinets and cupboards, operation of mechanical systems, elevators and other equipment, sounds transmitted through open windows or doors and similar causes. These sounds may be heard in normal conditions with typical noise levels. Owners should expect some transmission of sound between units, common elements or from outside of the buildings in the Project. Although the insulation and other soundproofing or sound dampening materials installed in the buildings in the Project meet or exceed all

applicable current building code requirements of the Town of Frisco, Seller makes no warranty regarding soundproofing of units and the transmission of sounds between units, common elements or from outside of the buildings in the Project shall not be considered a construction defect.

Buyer acknowledges and understands that the Condominium Unit is adjacent to one or more other condominium units and adjacent to or nearby to common area driveways, stairs and walkways, parking spaces, garages and public streets and that noise from these other condominium units, common area driveways, stairs and walkways, parking spaces, garages and public streets, as well as other sources, will be transmitted to the Property. Buyer acknowledges that the Seller has made no representations or warranties whatsoever as to what noise will or will not be transmitted to the Condominium Unit from other condominium units, common area stairs and walkways, from any other source, or from the Condominium Unit to other condominium units.

By executing this Agreement, Buyer accepts whatever noise may be transmitted to the Condominium Unit from whatever source. The Impact Insulation Class (IIC) is a single number that rates the impact sound insulation of a floor-ceiling above a room. Impact sound is sound from a person walking in the room above you, chairs dragging on the floor, etc. The Uniform Building Code requires that floor-ceilings that separate residential units have an IIC rating of at least 50. Wood-framed structures typically do not perform as well as steel or concrete structures with regard to impact noise, even with the use of carpeting. This limitation is inherent to the wood structure regardless of the size of the lumber, resilient attachment of ceilings, or mass of the floor. Even when assemblies in wood structures achieve high IIC ratings, low frequency sounds such as " thuds" or " thumps" are often still audible. This will occur even though the floor-ceilings in the buildings containing residential units in the 9097 Flats Condominiums have been designed with an IIC that is above the minimum standards of the Uniform Building Code. Buyer understands, acknowledges and agrees to these inherent limitations and noise impacts.

____ Buyer's initials confirming the above provisions

By initialing, Buyer hereby acknowledges that he/she has read the foregoing disclosure and fully understands its content. Buyer for himself/herself, and his/her successors and assigns, hereby releases Seller from all liability with respect to the matters discussed in the foregoing disclosure.

9. **Radon Gas Disclosure and Release:** The Colorado Department of Health and the United States Environmental Protection Agency (the "EPA") have detected elevated levels of naturally occurring radon gas in certain residential structures throughout Colorado. The EPA has voiced concerns about the possible adverse effects on human health from the long-term exposure to high levels of radon gas. Buyer is hereby advised that Seller is not qualified and has not undertaken to evaluate all aspects of this very complex issue and that, with respect to the real property which is the subject of this Agreement, Seller has made no representation or warranty, express or implied, concerning the presence or absence of radon in the soils beneath or adjacent to the Condominium Unit or within the Condominium Unit prior to, on, or after date of Closing. Seller recommends that Buyer, at Buyer's sole expense, conduct Buyer's own investigation and consult with such experts as Buyer deems appropriate, to determine the level of radon gas in the Property.

By signing this Agreement, Buyer hereby acknowledges that he/she has read the foregoing disclosure and fully understands its content. Buyer also hereby acknowledges that he/she has received a copy of the EPA's pamphlet, titled "A Citizen's Guide to Radon" attached hereto as *Exhibit B*. Finally, Buyer, for himself/herself and his/her successors and assigns, hereby releases Seller from any liability with respect

to the matters discussed in the foregoing disclosure.

10. **Not Contingent on Sale of Property.** This Agreement is expressly **NOT** contingent upon the sale or lease of Buyer's present residence or any other property owned or under contract by Buyer.

11. **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 EXCESSIVE TAX BURDENS 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. BUYERS SHOULD INVESTIGATE THE DEBT FINANCING REQUIREMENTS OF THE AUTHORIZED GENERAL OBLIGATION INDEBTEDNESS OF SUCH DISTRICTS, EXISTING MILL LEVIES OF SUCH DISTRICT SERVICING SUCH INDEBTEDNESS, AND THE POTENTIAL FOR AN INCREASE IN SUCH MILL LEVIES.

12. **Upgrades/Options/Color Selection.**

a. **Selection of Finishes and Colors.** The Purchase Price for the Condominium Unit shall include the standard finishes, fixtures and appliances described in the Specification List for the Project. On or before the earlier of fourteen (14) days following notice from Seller, Buyer shall make selections using Seller's forms provided for such purpose from the standard color palate for those interior finishes for which a color selection is required pursuant to the Plans. Such color selections shall be final and binding upon Buyer in all circumstances. If Buyer has not made such color selections by the deadline as provided above, Seller shall be entitled to make such color selections, which shall be final and binding upon Buyer. If Buyer desires to change its color palate selections it shall notify Seller in writing of its desire to do so and shall submit to Seller Buyer's new color palate selections, together with a non-refundable administrative fee in the amount of \$ 1,000. Seller reserves the right in its sole discretion to deny Buyer the opportunity to change its color palate selections following its initial selection thereof and should Seller elect not to make any such changes, such decision shall be final and binding on Buyer. In case any item or color is unavailable, Seller shall notify Buyer of the unavailability and Buyer shall select a comparable item within five (5) business days after receipt of notice from Seller or Seller's representative of such unavailability. Buyer agrees that if Buyer fails to make any choice afforded within the appropriate time limits, Seller may make such choices for Buyer and the same shall be binding on Buyer.

b. **Buyer Requested Extras; Change Orders.** No later than thirty (30) days after mutual execution of this Agreement, Buyer may request upgrades to the finish of the Condominium Unit to be constructed or installed by Seller ("Extras"). Seller and Buyer shall execute a work order specifying the nature and cost of the Extras (the "Work Order"). At the time of execution of the Work Order, Buyer shall pay to Seller a non-refundable payment equal to 100% of the cost of the Extras, as determined by Seller, plus all expenses to be incurred in connection therewith, including architectural fees and any necessary drawings, and plus a Change Fee of \$ 500. No change in a signed Work Order subsequently requested by Buyer shall be binding upon Seller, unless said changes are made in writing, and Seller approves said changes in writing on an amendment to the Work Order. The cost of any such changes, together with a Change Fee of \$ 500 for each approved change, shall be paid by Buyer to Seller in cash upon execution by Buyer and acceptance by Seller of the amendment and such payment shall be non-refundable. Under no circumstance will Seller be required to make any change.

Buyer hereby agrees that in the event Buyer does not close on the Condominium Unit for any reason, other than Seller's default, Seller shall retain all amounts paid by Buyer for any Extras, Work Order or changes to any Work Order as liquidated damages and Buyer shall have no right, title or interest in such extras or options ordered.

13. **Condition of Title.** Subject to the payment or tender of the purchase price and compliance with the other terms and conditions hereof by Buyer, Seller shall execute and deliver a good and sufficient **SPECIAL WARRANTY DEED** to Buyer at closing, conveying the Condominium Unit free and clear of all liens and encumbrances except: general taxes, assessments and fees for the year of closing and all subsequent years taxes; easements and rights of way (actual or recorded); covenants, conditions, reservations and restrictions of record as of closing; those matters set forth as exceptions to title in the current title insurance commitment provided by Seller to Buyer pursuant to this Agreement; any items which an accurate survey or current physical inspection of the Condominium Unit would reveal; inclusion of the Condominium Unit within a special improvement district, fire protection district, recreation and park district, water and sanitation district or in any other special taxing district or in a municipality providing these services; and the Condominium Declaration of 9097 Flats Condominiums and the Condominium Map of 9097 Flats Condominiums (collectively the "Permitted Exceptions"). The Permitted Exceptions include but are not limited to those matters set forth on *Exhibit C* attached hereto and incorporated herein by this reference.

14. **Closing/Notice of Completion.**

a. **Notice of Completion.** Closing shall be held upon the completion of the Condominium Unit and not more than ten (10) days after Seller has given the Notice of Completion to Buyer ("*Notice of Completion*"). The date, time and place of closing shall be solely determined by Seller and designated by Seller in the Notice of Completion. "Completion," as used in this Agreement, shall have occurred when the Town of Frisco has issued a final or temporary Certificate of Occupancy for the Condominium Unit and Seller deems the Condominium Unit to be complete. Possession of the Condominium Unit shall be delivered to Buyer upon closing and delivery of deed.

b. **Date of Completion.** Seller agrees to proceed with reasonable diligence to complete construction of the Condominium Unit on or before 12/01/2024. In the event of delays in completion from causes over which Seller has no control (including, but not limited to, forces of nature and acts of God, fires, floods, lightning, ice, storm or other disasters, other weather conditions, earthquakes, acts of a public enemy, sabotage, vandalism, wars, insurrections, riots, civil or military disturbance, strikes, lock-outs, work stoppages, industrial disturbances, acts, regulation or enforcement of any federal, state or local government or authority, utility outages, unavailability of manpower, utility connections or materials, including custom choices or decorator selections requested by Buyer, and any acts of Buyer, including failure to timely perform any of its obligations hereunder), the time for completion specified above shall be extended for an amount of time equal to said delay.

In the event however if the closing does not occur on or before 06/15/2025 for any reason other than the defaults or delays of Buyer, then either Buyer or Seller may terminate this Agreement at any time after that date by written notice of termination sent to the other party. In the event of such termination both parties shall be released from all their obligations hereunder and the Earnest Money only shall be returned to Buyer.

c. **Closing Procedures.** The Closing shall be held in the County of Summit, Colorado, at a time and place specified by Seller in the notice given under Section 14.a above, or at such other time and place as shall be mutually acceptable to Seller and Buyer. At the Closing, the parties shall take the following actions:

(1) Seller shall deliver to Buyer an executed and acknowledged special warranty deed to the Unit (the "Deed") subject only to the Permitted Exceptions set forth in Section 13 of this Agreement and any other title exceptions agreed to or waived by Buyer pursuant to Section 26 of

this Agreement;

(2) Seller shall convey title to the personal property and fixtures installed within the Condominium Unit by a bill of sale;

(3) Buyer shall pay the balance of the Purchase Price as required by Section 2 above; and

(4) Buyer and Seller shall execute and deliver such other documents and take such other actions as may be necessary to accomplish the Closing and carry out their obligations under this Agreement.

d. Closing Costs. Buyer agrees to pay the State of Colorado documentary fee on the deed conveying the Condominium Unit and the fee for recording that deed, any sales taxes on the personal property conveyed and located within the Condominium Unit, and any transfer tax imposed upon the sale of the Condominium Unit by any governmental, quasi-governmental or private entity. If, at the request of Buyer and upon the agreement of Seller, the Closing is held in a place other than in Summit County, Colorado, Buyer shall pay at Closing all costs of whatever kind or nature incurred by Seller or its agents in accommodating Buyer, including, without limiting the generality of the foregoing, all costs of any courier service or postage. Seller and Buyer each agree to pay all other costs associated with the Closing which are customarily paid by sellers and buyers in similar transactions in the Town of Frisco and Summit County, Colorado, including, without limitation, one-half of the escrow closing fee charged by the title company. Buyer shall pay all loan origination fees and other costs associated with any Condominium Unit Financing or other financing obtained by it as well as the cost of any endorsements to the owner's title insurance policy to be provided by Seller pursuant to Section 10 hereof. Seller shall pay the cost of the basic premium on the owner's policy of title insurance to be provided by it pursuant to Section 26 of this Agreement.

e. Adjustments. The following items shall be adjusted as of the date of Closing:

(1) **Taxes and Assessments.** Real property taxes and assessments for the year of Closing, based upon the most current assessment and levy, and all assessments or charges imposed on the Project or the Condominium Unit by any governmental, quasi-governmental or private entity, including, without limitation, the Town of Frisco and Summit County, Colorado, shall be apportioned to the Closing Date. If real property taxes have not been assessed specifically to the Condominium Unit in such prior year, Seller may reasonably estimate the amount of such taxes attributable to the Condominium Unit, which estimate shall be apportioned to the Closing Date and shall be considered a final settlement.

(2) **Association's Operations and Reserve Fund.** At Closing, Buyer shall pay to the Association an amount equal to two (2) months' regular assessments, as determined in accordance with the Declaration, such sum to be held in a working capital fund. As per the provisions of Section 5.10 of the Declaration this is a non-refundable payment, and the Owner is not entitled to a credit or refund upon the subsequent sale of the Owner 's condominium unit.

15. **Closing Estimates.** Buyer agrees that any statement by any person, including any employee or agent of Seller, about any expected date of completion and closing shall NOT be binding on Seller, except for the notice of completion given to Buyer by Seller as provided in Section 14 of this Agreement. Any other statements of the expected date of closing or completion are estimates only, are not binding on Seller, and shall not be relied upon in any fashion by Buyer and no liability shall accrue against Seller for

any such statement made by any employee or agent of Seller.

16. **Notice of Completion and Walk-Through.** After Buyer's receipt of the Notice of Completion and prior to closing Buyer shall make a walk-through of the Condominium Unit at a time determined by Seller at which Buyer shall completely inspect the Condominium Unit with a representative of Seller. At the time of the walk-through Buyer and a representative of Seller shall agree upon, by completion of a written form (the "punch list"), those items, if any, Seller agrees to repair or complete within a reasonable time, either before or after closing, as determined by Seller. Buyer shall, upon execution of the punch list, accept the improvements and acknowledge that they were constructed pursuant to this Agreement, except as set out in the punch list.

17. **Proration of Taxes.** General real estate taxes (based on the most recent levy and assessment) and assessments, general or special, if any, for the year in which the closing occurs shall be prorated between Seller and Buyer to the date of closing, and such proration shall be deemed to be final. Upon closing Buyer agrees to assume and pay all taxes and assessments affecting the Property.

18. **Prohibition Against Assignment.** This Agreement is personal to Buyer and shall not be assigned by Buyer without the prior written consent of Seller which may be granted only in the sole discretion of the Seller.

19. **Inspection of Premises.** Buyer shall not enter or inspect the Condominium Unit unless authorized by the Seller or Seller's agent and accompanied by an authorized representative of Seller. Buyer must wear a hard hat and any other reasonable safety or protective devices always as may be required by Seller while anywhere on the Project. Seller may, in its sole discretion and election, consider any violation of this Section a material breach of this Agreement and may at its discretion charge a violation fee to Buyer which shall be due at closing in the amount of \$ 250 per occurrence of any breach of this Section or Seller may elect to terminate this Agreement by written notice to Buyer. In the event of such termination, Seller shall refund the Earnest Money to Buyer.

20. **Governing Documents-9097 Flats Condominium Association.**

a. **Review and Acceptance of Governing Documents.** Buyer acknowledges that Seller has furnished to Buyer with copies of the Condominium Declaration of 9097 Flats Condominiums (the "*Declaration*") and of the Articles of Incorporation, Bylaws and Rules and Regulations (if any) of the 9097 Flats Condominium Association (the "*Association*"), and the Association's *proforma* operating budget (collectively, the "*Governing Documents*") in their current form. Buyer has reviewed the Governing Documents, agrees to accept the benefits, obligations and restrictions that they impose upon the Condominium Unit and its owners and waives any right to terminate this Agreement due to such documents, notwithstanding any other provision of this Agreement. ***The Association may not have commenced operations at the date of this Agreement, there may be no annual/ balance sheet of the Association or minutes of any Owners' or Board of Directors' meetings of the Association. Seller's current estimate of Common Expense Assessments is based on an estimated annual budget of the Association. This is an estimate only and this could change based on additional information hereafter obtained by Seller and the Association.***

b. **Governing Documents Binding on Buyer.** If Buyer closes on the purchase of the Property, Buyer acknowledges that, upon delivery of the deed as herein provided, Buyer will automatically become a member of the Association, and Buyer agrees to be bound by the provisions of the Governing Documents, as amended from time to time in accordance with the provisions thereof, including, but not limited to, the obligation to pay all assessments levied by the Association as provided therein. Buyer further acknowledges and understands that the Governing Documents constitute an agreement between Buyer and the Association, and Buyer expressly agrees to be subject to and bound by Governing Documents (as they may be revised)

and to pay all fees, charges, surcharges, levies, dues, and assessments in whatsoever nature or form relating to the Association. Buyer understands that Buyer is responsible for paying all assessments of the Association and that if Buyer does not pay these assessments in a timely manner, the Association may place a lien on the condominium unit and possibly sell it to collect the debt. Buyer also understands that any change to the Condominium Unit may be subject to architectural review and approval and that failure to secure such review and approval could be a violation of the Declaration and could result in remedial action being taken by the Association.

c. **Seller's Right to Revise Governing Documents.** Seller reserves the right to amend any unrecorded documents, including the Declaration and the Condominium Map of 9097 Flats Condominiums, and any other of the Governing Documents at any time or from time to time prior to the Closing as Seller may deem necessary to make any necessary corrections or to meet the requirements of applicable laws, governmental regulations, lending institutions and marketing programs. Buyer acknowledges that some of the Governing Documents may be in draft form. Seller reserves the right to revise the Governing Documents (including, without limitation, the Condominium Map of 9097 Flats Condominiums (the " Map"), which remains to be prepared and recorded) prior to Closing or otherwise as permitted thereunder or by law and as Seller may, in its reasonable good faith judgment and discretion, deem desirable or necessary to: (i) make any corrections to the Governing Documents and the Map; (ii) comply with the requirements of applicable laws, governmental regulations, lending institutions and/or marketing programs; (iii) establish additional easements, reservations and restrictions; and/or (iv) for any other purpose, provided that such revisions shall not, in Seller's reasonable, good faith discretion, materially and adversely affect the value of the Condominium Unit nor materially alter the rights and/or obligations of Buyer. Buyer acknowledges that Seller has reserved the right, for itself and for the Association, at any time after Closing, to amend the Declaration and the Articles of Incorporation and Bylaws of the Association for the purposes and under the conditions outlined under those documents. Copies of the final Declaration and the Articles of Incorporation, Bylaws and Rules and Regulations for the Association shall be delivered to Buyer at Closing.

d. **MANDATORY DISPUTE RESOLUTION, TO ENCOURAGE THE PROMPT AND AMICABLE RESOLUTION OF DISPUTES AND AVOID THE EMOTIONAL AND FINANCIAL COSTS OF PROTRACTED LITIGATION, THE DECLARATION PROVIDES FOR A MANDATORY DISPUTE RESOLUTION PROCESS. THE PROCESS IS DESCRIBED IN DETAIL IN THE DECLARATION. BUYER UNDERSTANDS AND AGREES BUYER WILL BE BOUND BY THE MANDATORY DISPUTE RESOLUTION PROVISIONS OF THE DECLARATION.**

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

PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

21. **Responsibility for Utilities.** Buyer understands and agrees that all separately metered utilities to the Condominium Unit will be changed from Seller's name to Buyer's name by Buyer no later than three (3) days after the closing occurs and Buyer shall thereafter be obligated to pay the cost of such utilities.

22. **No FHA or VA Financing.** Buyer hereby represents, warrants and covenants to and for the benefit of Seller, with the understanding that Seller will rely thereon, that Buyer is not obtaining and will not be obtaining any FHA or VA financing or other assistance from such federal agencies with respect to its acquisition of the Condominium Unit, and that neither the Condominium Unit Financing nor any other financing obtained by Buyer for Buyer's acquisition of the Condominium Unit will be insured or guaranteed by the Federal Housing Administration or Veterans Administration.

23. **Risk of Loss:** The risk of damage to and loss of the Condominium Unit shall be borne by Seller until the closing, and thereafter such risk shall be borne by Buyer. In case of any casualty causing damage to the Condominium Unit or the Building in which the Condominium Unit is located in an amount of not more than twenty percent of the Purchase Price, as determined by Seller, Seller shall repair such damage and proceed to Closing. If damage to the Condominium Unit or the Building in which the Condominium Unit is located is greater than twenty percent of the Purchase Price, as determined by Seller, Seller may, at its election, either: (i) terminate this Agreement, in which case the Earnest Money shall be returned to Buyer or (ii) repair such damage and proceed to Closing. In the event this Agreement is not terminated, any delay in completion or the Closing Date shall be governed by Section 14 of this Agreement. Seller shall in all cases be entitled to any insurance proceeds resulting from such damage.

24. **Eminent Domain.** A taking by eminent domain of a portion of the Project that does not substantially interfere with or diminish the practical enjoyment and use by Buyer of the Condominium Unit and the Project shall NOT be deemed grounds for termination of this Agreement. In the event however, that a taking by eminent domain results in a taking of the Condominium Unit or the taking of a substantial portion of the Project, as determined by Seller, this Agreement shall terminate, in which event all Earnest Money and any other amounts paid by Buyer to Seller hereunder, without interest, shall be returned to Buyer, and neither party shall have any further obligations under this Agreement.

25. **Default; Remedies.** Time is of the essence hereof. It shall be a default hereunder if any payment due hereunder is not made or tendered when due, or if any covenant, agreement or obligation hereunder is violated or is not performed as herein provided, in which case, except as otherwise expressly provided herein, this Agreement, at the option of the party who is not in default, may be terminated by such party by giving written notice to the other party.

- (a) **Seller's Default.** Notwithstanding anything to the contrary contained in this Agreement, if Seller is in default, Buyer shall notify Seller thereof in writing and Seller shall thereafter have a period not to exceed ten days following receipt of such notice within which to cure the default. If Seller fails to cure within such ten-day period, Buyer's sole and exclusive remedy shall be to terminate this Agreement by written notice to Seller, whereupon the Earnest Money shall be returned to Buyer, and Buyer hereby waives all rights to maintain an action for damages (whether actual, direct, indirect, consequential, special, punitive or otherwise) and/or sue for specific performance. Alternatively, Buyer may waive such default and proceed to Closing (again subject to the waiver of the damages and specific

performance remedies described above). If Seller fails to close pursuant to this Agreement, Buyer's sole and exclusive remedy shall be to terminate this Agreement whereupon the Earnest Money shall be returned to Buyer, and Buyer hereby waives all rights to maintain an action for damages (whether actual, direct, indirect, consequential, special, punitive or otherwise) and/or sue for specific performance.

- (b) **Buyer's Default.** Notwithstanding anything to the contrary contained in this Agreement, if Buyer is in breach or default hereunder for any reason other than a failure to close or for any reason identified in Section 31 hereof, Seller shall notify Buyer thereof in writing and Buyer shall thereafter have a period not to exceed ten days following receipt of such notice within which to cure the same. If Buyer fails to cure within such ten-day period, Seller's sole remedy will be to terminate this Agreement, whereupon Seller will be entitled to retain the Earnest Money as liquidated damages. Buyer and Seller agree that if Buyer is in breach of Buyer's obligations under this Agreement, it will be difficult to determine Seller's damages which include the lost opportunity of selling the Condominium Unit to another Buyer while it was under Agreement to Buyer. Consequently, the liquidated damages provided herein are a fair and reasonable estimate of Seller's damages. Buyer shall have no right to cure in any situation where Buyer is in breach or default hereunder as a result of its failure to close or for any reason identified in Section 31 hereof.

Notwithstanding the foregoing provisions of this Section 25, if Buyer shall fail, refuse or neglect to close on the date, time and place, as set out in the Notice of Completion and Seller does not elect to terminate the Agreement and instead Buyer and Seller agree to an extended date of Closing and Buyer then is able to close on the closing date as extended, the Purchase Price shall be increased by the greater of two hundred fifty dollars (\$ 250) per day or one and one-half percent (1 1/2%) of the Purchase Price per month or any part thereof from the closing date specified in the Notice of Completion until the date the actual closing occurs.

26. **Title Insurance.** A current commitment (the "Title Commitment") for an owner's policy of title insurance (the "Title Policy") issued by the Title Company in an amount equal to the Purchase Price shall be furnished to Buyer by Seller at Seller's cost, at least thirty (30) days prior to the date of closing (the "Title Deadline"), but Seller's failure to deliver the Title Commitment by the Title Deadline will not be a default hereunder. If the Title Commitment discloses the existence of any defects in title, other than the Permitted Exceptions and the standard printed exceptions appearing in the Title Commitment, and such defects render title to any portion of the Condominium Unit unmerchantable and the defects are not waived by Buyer, Buyer must give Seller written notice of the title defects within five (5) days after receipt of the Title Commitment. If written notice of title defects is not received by Seller from Buyer within five (5) days after receipt of the Title Commitment, Buyer shall be deemed to have conclusively accepted the condition of title as described in the Title Commitment. If timely written notice of such objection is provided by Buyer to Seller as provided above, and Seller notifies Buyer in writing within ten (10) days after Seller's receipt of such objections that it is unwilling or unable to cure such objections prior to closing, Buyer may either (i) terminate this Agreement by giving written notice to Seller within five (5) days after receipt of such notice not to cure from Seller to Buyer, in which event the Earnest Money paid by Buyer to Seller hereunder shall be refunded, without interest, and the parties released from all further obligations hereunder, or (ii) waive such title objections. If Seller does not receive timely notice of termination, Buyer shall be deemed to have waived all title objections described in Seller's notice not to cure and shall take title at closing subject to such matters. Notwithstanding the foregoing, Buyer shall have no right to make any objection to title for any items or matters contained in the Governing Documents and as provided in Section 20 of this Agreement, Buyer has approved of the Governing Documents.

Deletion of any standard printed exceptions from and/or any endorsements to the Title Policy will be at Buyer's cost. In addition, Seller shall not be required or obligated to obtain or pay for any improvement location certificate or survey on the Condominium Unit. The Title Policy will be delivered to Buyer as soon

as practicable after closing by the Title Company.

Buyer acknowledges that matters reflected in the Title Commitment affect the title, ownership and use of the Condominium Unit and should be reviewed carefully. Additionally, other matters not reflected in the Title Commitment may affect the title, ownership and use of the Property, including without limitation boundary lines and encroachments, zoning, unrecorded agreements and easements and claims of easements and various laws and governmental regulations concerning land use, development and environmental matters. Buyer is advised to timely consult legal counsel with respect to all such matters as there are strict time limits provided in this Agreement.

27. **RESPA Disclosure.** As required by the Real Estate Settlement Procedures Act of 1974, Buyer acknowledges that Seller has not directly or indirectly required Buyer, as a condition of sale, to purchase either an Owner's or Lender's title insurance policy from any particular title company. Seller has advised Buyer that it will purchase, at Seller's sole cost and expense, an Owner's title insurance policy from a title company selected by Seller. Seller has also advised Buyer that if Buyer does not wish Seller to purchase the title insurance policy from such company, Buyer may elect to obtain such insurance from a company of Buyer's choice and Buyer shall pay, at closing, that portion, if any, of the title insurance premium in excess of what the premium would have been if Buyer had accepted the title insurance policy offered by Seller.

28. **Ongoing Construction Activity.** Buyer acknowledges and recognizes that Buyer is purchasing the Condominium Unit during a period of construction and the Condominium Unit may be completed prior to the completion of other buildings and condominium units in the Project. Buyer acknowledges and understands that prior to final completion of construction of the Project, there are expected to be substantial construction-related activities in progress that may cause noise, dust, construction debris and other attendant impacts and inconveniences. Additionally, not all paving or repaving of the access drives or parking areas within the Project may be completed until the use of heavy construction equipment has ceased. Buyer acknowledges and understands that the Condominium Unit may be adjacent to or nearby to other real estate construction projects and that noise from these other real estate construction projects and other sources may be transmitted to the Condominium Unit or the Project. Buyer acknowledges that Seller has made no representations or warranties whatsoever as to what noise will or will not be transmitted to the Condominium Unit from other projects or from any other source. By executing this Agreement, Buyer accepts whatever noise may be transmitted to the Condominium Unit from any other source and Buyer waives all claims with respect to noise or any other impacts to the Condominium Unit or the Project from these ongoing construction activities.

29. **Soils and Drainage:** Buyer hereby acknowledges that Buyer has been advised by Seller, and understands, that the soils within the State of Colorado 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 Condominium Unit and the building in which the Condominium Unit is located if the Property, the building in which it is located and the land upon which the building and the Condominium Unit sit are not properly maintained.

Buyer further acknowledges receipt of a summary report of the soils analysis and site recommendations attached hereto as **Exhibit D**, and a copy of a publication entitled "A Guide to Swelling Soils for Colorado Home Buyers and Homeowners " attached hereto as **Exhibit E** detailing the problems associated with expansive soils and the building methods to address problems associated with construction on such soils and suggestions for care and maintenance as required by Colorado Revised Statutes 6-6.5-101.

Soil investigations and tests have been made for the Project by an independent soil engineer. Buyer, for Buyer and Buyer's heirs, administrators, executors and assigns, accepts the soil conditions of the Condominium Unit and the Project and foundation design and floor slabs and footings installed thereon without any express or implied warranties other than those referenced in Section 5 of this Agreement. Seller shall in no manner be responsible for landscaping problems of any type or kind. The provisions of this Section of the Agreement shall survive the closing and delivery of deed.

FURTHER, BUYER ACKNOWLEDGES THAT EXTERIOR MAINTENANCE OF THE BUILDINGS AND BUILDING AREAS BY THE ASSOCIATION IS CRITICAL TO MINIMIZE SWELLING OF THE SOILS, BUT THAT EVEN WITH PROPER MAINTENANCE, SWELLING OF THE SOILS MAY STILL OCCUR. BUYER ALSO ACKNOWLEDGES THAT FLAT WORK SUCH AS PATIOS, DRIVEWAYS, PORCHES, SIDEWALKS, STAIRWAYS, ETC. CANNOT BE CONTROLLED ECONOMICALLY WITH CURRENT TECHNOLOGY, AND THESE AREAS MAY EXPERIENCE DAMAGE FROM SWELLING SOILS NOTWITHSTANDING THE REMEDIAL STEPS UNDERTAKEN TO PREVENT THE SAME.

Seller shall complete the grading of the Project and shall initially establish swales and drainage patterns in a manner which will assure that any water falling on the Project, whether from natural precipitation or from irrigation of the vegetation in the Project, will flow positively away from the buildings and condominium units constructed as part of the Project. Buyer acknowledges and agrees that the Association shall be responsible to maintain the grading, swales, drainage patterns established by Seller and to make certain that all gutters and down spouts are functioning and unobstructed. Buyer acknowledges and understands that failure to maintain or any alteration of the grading and drainage of the Project could disrupt the drainage for the Project and cause water retention, flooding or ponding in the Project and result in damage to the Condominium Unit, the building in which the Condominium Unit is located and other improvements in the Project. Seller shall have no responsibility or liability for damages caused by any failure to maintain or any alteration of the grading and drainage of the Project.

If the Association or the owners of the condominium units change or fail to maintain such grades, swales, and drainage patterns, or over waters the Project, Seller shall be relieved of any responsibility for damage caused by improper drainage, including any cracking, heaving, settling of, or other damage to the foundation, concrete flatwork or other components of the Property.

30. **Molds.** Molds, mildew, fungi, bacteria and microbiologic organisms (collectively, "*Molds*") are present in soil, air and elsewhere in the environment. Molds can proliferate in various environments, including, without limitation, damp areas such as crawl spaces, attics, bathrooms, within walls and partitions, and in basements. Some persons have expressed concerns about the possible adverse effects on human health from exposure to Molds. For numerous reasons, including the varying sensitivities of different individuals to various types of Molds and other contaminants, no state or federal standards currently exist regarding acceptable levels of exposure to Molds. According to the Consumer Product Safety Commission and the American Lung Association, some diseases or illnesses have been linked with biological pollutants in the indoor environment, including some forms of Mold.

However, it is believed that many of these conditions may also have causes unrelated to the indoor environment. Therefore, it is presently unknown how many potential health problems relate primarily or exclusively to indoor air quality or Molds. Buyer is advised that Seller is not qualified and has not undertaken to evaluate this very complex issue. Buyer acknowledges that Seller has not performed any testing or evaluation of, and makes no representations or warranties, express or implied, concerning the past, current or future presence or absence of Molds in the Condominium Unit or any other portion of the Project or near the Project. Seller recommends that Buyer, at Buyer's expense, conduct its own investigation and consult with any experts Buyer deems appropriate regarding the occurrence and effects of Molds, the potential sensitivity or special risk Buyer, his or her family members, and other individuals who will occupy or use the Condominium Unit or the Project may have with respect to Molds, and methods to reduce or limit Molds within the Property. Seller is not responsible for damage caused by Molds, and Buyer waives and releases any claims against Seller relating to Molds.

31. **Recording of Agreement.** If at any time Buyer causes this Agreement, or any memorandum, affidavit or other instrument (other than a Lis Pendens) that refers to this Agreement, to be recorded in the real property records of Summit County, Colorado, Buyer shall be in default and, at Seller's sole election, this Agreement shall terminate upon such filing or recording, shall be of no further force and effect and neither party shall have any further obligations under this Agreement. Upon such termination, Seller shall be immediately entitled to be paid the Earnest Money as liquidated damages, and Buyer, upon demand, will execute and deliver such documents as Seller may reasonably request to remove any cloud of title on the Condominium Unit or the Project.

32. **Construction Loan.** The rights of Buyer under this Agreement are subordinate to the construction loan to be obtained by Seller for construction of the Project, which loan is or may be evidenced by a deed of trust on the real estate on which the Project is being constructed and all improvements thereon.

33. **Buyer's Independent Investigation-Future Use and Character of Adjacent Condominium Unit and Streets.** Buyer has independently investigated the use (present or future) and character of all property and roadways adjacent to the Condominium Unit. Buyer has not relied on any statements of any leasing agent or broker or any brochures or displays of Seller concerning the use or character of any adjacent property. In conjunction with Buyer's independent investigation, Buyer is advised that the Town of Frisco may have future transportation or development plans for the area surrounding the Project.

34. **Seller's Exclusive Rights.** Seller reserves the right to develop the Project according to its plans, which may change from time to time. Seller has the right at any time for whatever reasons Seller deems appropriate, in its sole and absolute discretion to use any method of marketing to sell, lease or otherwise dispose of any or the entire remaining or future inventory of condominium units, including the use of incentives, concessions, price reductions, and bulk sales or other promotions and techniques.

35. **Sales Price and Property Values.** The purchase price Buyer is paying for the Condominium Unit and any sales options, inclusions or exclusions Buyer may have received in connection with this purchase are the result of an arm's length negotiation with Seller. The price is not based upon any agreements, guarantees, promises or representations concerning property values, the past, present or future prices paid or to be paid for other condominium units in the Project, or any sales options, inclusions or exclusions offered in conjunction with any such sales. Seller has no obligation to take any action or refrain from taking any action in connection with the development or marketing of condominium units in the project that would support or enhance the value of the Condominium Unit that is the subject of this Agreement.

36. **Buyer Waiver.** Buyer waives any rights or remedies against Seller that Buyer may have now or in the future, for any decline in the value of the Condominium Unit being purchased by Buyer hereunder because

of any actions or any inactions by Seller. Buyer waives and releases all such rights or remedies to the fullest extent permitted by law.

37. **No Reliance on Statements Outside of This Agreement.** Except as expressly stated in this Agreement, neither Seller nor anyone acting for or on behalf of Seller has made any representation, statement, warranty or promise to Buyer concerning the physical aspects and condition of the Condominium Unit, the desirability of the Condominium Unit, the potential income to be derived from or expenses associated with ownership of the Condominium Unit or the suitability of the Condominium Unit for any particular use. In entering into this Agreement, Buyer has not relied on any representation, statement or warranty of Seller, or anyone acting for or on behalf of Seller, regarding all matters concerning the Condominium Unit, including but not limited to the condition of the soil or any information contained in any soils reports or any other information supplied by Seller (the "Seller information"), except as expressly stated in this Agreement. Buyer agrees it is Buyer's responsibility under this Agreement to review and evaluate all the Seller information and any other information Buyer obtains regarding the Property. Buyer is purchasing the Condominium Unit based on Buyer's own inspection and examination of the Condominium Unit in an "as is" physical condition, and in an "as is" state of repair with all faults. Except as expressly stated in this Agreement or in the deed conveying the Property Seller hereby disclaims, all warranties of any type or kind whatsoever with respect to the Property, any soils reports or the other information, express or implied, including, by way of description but not limitation, warranties of fitness for a particular purpose, merchantability, tenant ability, habitability and use. Buyer hereby waives any such warranties.

38. **Authority.** No person has the authority to make any guaranty, promise or representation on behalf of Seller that contradicts or conflicts with this Agreement. Buyer acknowledges and agrees that no salesperson, employee, agent, or broker has made any such guaranty, promise or representation. Buyer acknowledges that any such guaranty, promise or representation is void and has no effect and Buyer is not relying upon any such statement in Buyer's decision to purchase the Property. Seller represents that Michele Hart (selling agent for Slifer, Smith, Frampton) is also a partner in the development of 9097 Flats project.

39. **No Direction or Supervision.** Buyer shall not issue or give any directions or instructions to any persons working at or on the Condominium Unit or the Project for or on behalf of Seller, including but not limited to all contractors or subcontractors or their workers. Buyer agrees Buyer shall not in any way interfere with such workers. Buyer agrees that the direction and supervision of the workers on the Project, including subcontractors, rests exclusively with Seller and Buyer agrees not to issue any instruction to or otherwise interfere with such workers. Any conduct by Buyer in violation of this Section shall be a default and shall give Seller the right in Seller's sole discretion and election, to charge a violation fee to Buyer in the amount of \$ 250 per incident, to be paid at closing or, at Seller's option, Seller may terminate this Agreement by written notice of termination to Buyer. In the event of such termination, Seller shall refund the Earnest Money to Buyer. Buyer may not visit the construction site without prior authorization from Seller.

40. **Construction Site Risks.** Buyer acknowledges that the Project construction site contains serious risks and hazards. Buyer waives any claim against Seller for, and assumes the risk of and all responsibility for, any loss, injury or damage incurred by Buyer or Buyer's agents, family members, guests, or invitees, incurred as a result of or in connection with their visits to the construction site.

41. **Engagement of Workers.** Unless otherwise agreed to in writing between the Buyer and Seller, Buyer will not contract with Seller's contractors or subcontractors or any of their workers and Buyer will not engage outside contractors or subcontractors to perform any work on the Condominium Unit or the Project, or to provide any materials or services, until after Closing. Any violation of this Section by Buyer shall be a default and shall entitle Seller to terminate this Agreement at Seller's sole and absolute discretion and election, by written notice of termination to Buyer. In the event of such termination by Seller, Seller shall refund the Earnest Money to Buyer.

42. **Financing Decisions.** Buyer hereby and forever waives any claim for any financing decision made by Buyer regarding the purchase contemplated by this Agreement. Buyer agrees that all such decisions are Buyer's responsibility to make, and that Buyer has not now or in the future relied on any statement by any employee or agent of Seller in making such decision. This includes but is not limited to decisions made by Buyer based on any estimates made by any employee or agent as to the completion time of the Condominium Unit to be purchased under this Agreement, which statement shall have no effect and shall not bind Seller in any way.

43. **Dispute Resolution.** If Buyer and Seller are unable to resolve any claims or disputes that in any way arise out of, are related to, or involve this Agreement, or its negotiation or alleged breach, or the construction, design, inspection, geotechnical analysis, and/or sale of the Condominium Unit (collectively, "Dispute"), such Dispute shall be settled as follows: (i) all Disputes shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules or the Commercial Arbitration Rules, as applicable, of the American Arbitration Association, unless the parties mutually agree otherwise; (ii) notice of the demand for arbitration shall be filed in writing with the other party and with the American Arbitration Association. The demand for arbitration shall be made within a reasonable time after the Dispute has arisen, and in no event shall be made later than three years following the Effective Date of this Agreement; and (iii) the award granted by the arbitrators shall be final and judgment may be entered upon it in accordance with the applicable law in any court having jurisdiction thereof. Buyer and Seller further agree that all employees or agents of Seller are third-party beneficiaries of this provision and that the terms and conditions hereof, including the arbitration provision, shall also apply to Seller's employees and agents.

44. **Approval and Binding Effect.** This Agreement shall become effective only after it has been approved by an officer or other authorized agent of Seller, with his/her title to be shown hereon, and execution hereof by a salesperson shall only constitute receipt for the Earnest Money payment recited above. Upon approval by Seller, this Agreement shall become a binding contract between Seller and Buyer and shall inure to the benefit of the heirs, representatives, and successors and permitted assigns of said parties.

45. **Captions and Gender.** The captions used in this Agreement are for convenient reference only and do not affect the meaning or interpretation of this Agreement or the terms and conditions in this Agreement contained. As used in this agreement the singular shall include the plural and the masculine shall include the feminine and neutral genders as appropriate.

46. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Colorado.

47. **Buyer's Acknowledgement.** BUYER CERTIFIES THAT HE HAS READ ALL OF THIS AGREEMENT AND THAT THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN BUYER AND SELLER AND NO AGREEMENTS, PROMISES OR WARRANTIES EXCEPT THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT HAVE BEEN MADE BY SELLER OR ITS SALESPERSON(S) TO BUYER. NO ORAL REPRESENTATIONS OR STATEMENTS SHALL BE CONSIDERED A PART OF THIS AGREEMENT. NO AMENDMENT TO OR MODIFICATIONS OF THIS AGREEMENT SHALL BE EFFECTIVE UNLESS IN WRITING AND SIGNED BY THE PARTIES HERETO.

48. **Opportunity for Review.** BUYER ACKNOWLEDGES THAT THEY HAVE HAD THE OPPORTUNITY TO HAVE LEGAL COUNSEL REVIEW THE AGREEMENT AND TO COUNSEL AND ADVISE BUYER REGARDING THIS AGREEMENT PRIOR TO SIGNING THIS AGREEMENT. THIS AGREEMENT CONTAINS CERTAIN TERMS AND CONDITIONS THAT FAVOR SELLER. BUYER AGREES THAT THESE TERMS AND CONDITIONS ARE REASONABLE TO PROTECT THE INTEREST OF SELLER AND BUYER ACCEPTS THIS AGREEMENT WITH SUCH KNOWLEDGE AND AFTER CONSULTING WITH ANY COUNSEL OF THEIR OWN CHOOSING IF BUYER SO

DESIRED.

49. **Facsimile/Electronic Signatures.** Facsimile signatures and or electronically reproduced signatures shall be acceptable and shall bind the parties to the terms of this Agreement. Separate counterparts of this Agreement or any agreement or amendment may be separately executed, and, when taken together, shall constitute the Agreement of the parties.

50. **Termination by Seller.** If Seller is unable to perform any of its obligations hereunder, because (i) Seller is unable to obtain building permits, certificates of occupancy, or other governmental approvals; or (ii) any other circumstance occurs that is beyond the reasonable control of Seller, Seller may terminate this Agreement by written notice to Buyer, whereupon the Earnest Money shall be returned to Buyer. This right of termination is in addition to, and not in lieu of, any other rights of Seller hereunder.

51. **Listing Broker.** Buyer and Seller acknowledge that **Slifer Smith & Frampton** is the only listing broker ("Broker") for the transaction outlined in this Agreement. Seller agrees to pay a brokerage commission at Closing for the sale of the Condominium Unit pursuant to its separate listing contract with Broker. Except as may otherwise be required in the separate listing contract between Broker and Seller, Broker shall represent Seller as Seller's Agent and shall treat the Buyer as a customer working with Broker or as a Transaction Broker, performing the duties described in the **Definitions of Broker Relationships** form attached hereto as **Exhibit F** and incorporated herein by this reference. Buyer acknowledges receipt of such Agency Disclosure Form. Buyer agrees to indemnify and hold Seller harmless from any claims or demands for commissions or fees payable to any other person or entity as a consequence of any agreement entered into or action taken by Buyer.

52. **Notices.** All notices or demands required or permitted to be given hereunder shall be in writing and shall be delivered by hand or mailed, postage prepaid, registered or certified (with return receipt requested) to the respective addresses later stated in this Section. Any notices shall be conclusively deemed received three business days after the date of mailing or the date of hand delivery. If there is more than one Buyer, Seller shall be required to give notice to only one of the parties. Buyer shall designate the party to receive notices and, if no one party is designated, Seller shall be deemed to have given adequate notice under this Section if Seller gives written notice to any one of the parties comprising Buyer:

If to Seller: White Pines Residences LLC
 Attention: Ken Marsh
 9233 Park Meadows Drive
 Suite 219
 Lone Tree, Colorado 80124
 E-mail: kenmarsh57@msn.com

with a copy to: Slifer Smith & Frampton
 Attention: _____
 117 S. Main St.
 Breckenridge, CO
 80424
 Email:
 Tel: _____

If to Buyer:

To the name(s) and address(es) for Buyer(s) set forth in at the beginning of the Agreement.

53. Additional Disclosures, Disclaimers and Provisions.

a. **Parking.** Buyer understands, acknowledges and agrees that except for any parking space or garage space identified in a deed from Seller or on the Condominium Map of 9097 Flats Condominiums as a limited common element allocated to the Condominium Unit or to any other unit in the Project, the Association shall manage and maintain all surface parking spaces at the Project as a "Common Element" for the use and benefit of all the owners of condominium units in the Project and their respective guests, licensees and invitees. All such surface parking spaces shall remain Common Elements (as defined in the Declaration) and shall be held, managed and maintained by the Association for the use and benefit of each condominium unit owner in the Project in accordance with the terms and conditions of the Declaration and other Governing Documents. The Parking Space located in front of the garage door leading into a Garage Space shall be allocated as a limited common element to the same condominium unit to which the Garage Space is allocated. A Garage Space or a Parking Space allocated to a specific condominium unit shall remain allocated to that condominium unit and cannot be sold, transferred, conveyed or used separate from the condominium unit to which the Garage Space or Parking Space is allocated, except as may be specifically provided for in the Declaration.

b. **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 Condominium Unit at a minimum temperature of 60° in order to prevent broken pipes; (d) the need to open windows to cool the Condominium Unit during certain periods of the year, as no air conditioning is provided to the Condominium Unit; and (e) other inconveniences arising from the sometimes severe winter conditions in the Rocky Mountains.

c. **Construction Activities and Mountain Activities.** Buyer acknowledges and understands the following:

(1) The Project is being constructed in phases and is in an area that is subject to ongoing construction activities relating to the development of Summit County, Colorado, in general (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: (a) construction traffic traveling on the roads within the Project and within Summit County, Colorado; and (b) construction activities (including, without limitation, grading excavation, clearing, site work and the construction of improvements) relating to infrastructure and improvements for the Project.

(2) The Project is located near skiing facilities and recreational areas (the "Mountain Recreational Areas"). 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"). The Mountain Activities include, without limitation, vehicular traffic, including, without limitation: (i) buses, vans and other vehicles which transport local residents and others who use the Mountain Recreational Areas over, around and through the Mountain Recreational Areas; and (ii) construction vehicles and equipment.

Buyer acknowledges that the Construction Activities and the Mountain Activities, and the impacts and disturbances generated by the Construction Activities and the Mountain Activities, may occur in and around the Project.

Buyer agrees that Buyer will not have the right to rescind this Agreement or to claim any breach of this Agreement on account of the existence or occurrence of the Construction Activities or the Mountain Activities and such impacts and disturbances.

d. No View Easement. Notwithstanding any representations made to Buyer to the contrary by Seller, any real estate agency or any agent, employee or representative of Seller, or any other person, and by signing this Agreement Buyer acknowledges and agrees there is no easement or other right, expressor implied, for the benefit of Buyer or the Condominium Unit for light, view or air included in or created by this Agreement, the Declaration or as a result of Buyer owning the Condominium Unit. Buyer represents to Seller that he or she has in no way relied upon any statement or representations as to the location, height, design, dimensions or other elements of any development near the Project in connection with the Buyer's purchase of the Condominium Unit. Any such elements depicted on models or other renderings cannot be relied upon as accurate.

e. Real Estate Transfer Tax. The Property is subject to the Town of Frisco, Colorado Subdivision Improvements Agreement for 9097 Flats recorded on TBD as Reception No. TBD in the Office of the Clerk and Recorder of Summit County, Colorado (the SIA). Section 21.h. of the SIA provides that each and every sale of a condominium unit shall be subject to a Real Estate Transfer Assessment ("RETA") of 1% of the purchase price. This requirement to pay a real estate transfer assessment will be set forth in a Real Estate Transfer Covenant that will be recorded in the Office of the Clerk and Recorder of Summit County, Colorado prior to the recording of the Condominium Map of 9097 Flats Condominiums.

Buyer hereby acknowledges and accepts such disclosures, disclaimers and other provisions and agrees to waive any and all rights Buyer may have by virtue of the representations and warranties disclaimed except as limited by applicable law. Except as otherwise provided in the limited warranty referenced in Section 5 of this Agreement, Buyer purchases the Condominium Unit "AS IS" and "WITH ALL FAULTS" and assumes the risk of damage occurring in the Condominium Unit after Closing, regardless of the cause.

ALL PROVISIONS OF THIS SECTION 53 SHALL SURVIVE CLOSING (AND SHALL NOT MERGE WITH TITLE), TERMINATION OR EXPIRATION OF THIS AGREEMENT.

54. **Addenda/Attachments.** The following documents are attached to and made a part of this Agreement.

- a. *Exhibit A- Limited Warranty Agreement*
- b. *Exhibit B- A Citizen's Guide to Radon*
- c. *Exhibit C- Permitted Exceptions*
- d. *Exhibit D- Summary Soils Report*
- e. *Exhibit E- A Guide to Swelling Soils for Colorado Home Buyers and Homeowners*
- f. *Exhibit F- Definitions of Broker Relationships*

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

THIS AGREEMENT HAS SPECIFIC LEGAL CONSEQUENCES. IF YOU DO NOT UNDERSTAND ANY PART OF THIS AGREEMENT SEEK LEGAL COUNSEL PRIOR TO SIGNING.

BUYER:

Buyer Date

Buyer Date

(Tenants in Common) (Joint Tenants)

THIS AGREEMENT IS NOT BINDING UNTIL EXECUTED BY AN AUTHORIZED OFFICER OF WHITE PINES RESIDENCES, LLC.

SELLER:

Approved and accepted by Seller this _____ day of _____, 202_.

WHITE PINES RESIDENCES, LLC,
a Colorado limited liability company

By: _____

Its: _____

LISTING BROKER:

SLIFER SMITH & FRAMPTON

By: _____

Name:

Title:

BUYER'S BROKER:

Name:

Company Name:

Address:

Email:

Phone Number:

EXHIBIT A TO PURCHASE AND SALE AGREEMENT
(Limited Warranty Agreement)

EXHIBIT A

BUYER(S) INITIALS: /

EXHIBIT B TO PURCHASE AND SALE AGREEMENT
(EPA's pamphlet, titled "A Citizen's Guide to Radon")

EXHIBIT B

BUYER(S) INITIALS: /

EXHIBIT C TO PURCHASE AND SALE AGREEMENT
(Permitted Exceptions to Title)

[NOTE: this Exhibit C may be revised based on updated title work obtained prior to or following the date of mutual execution of this Agreement]

1. RIGHTS OR CLAIMS OF PARTIES IN POSSESSION NOT SHOWN BY THE PUBLIC RECORDS.
2. EASEMENTS, OR CLAIMS OF EASEMENTS, NOT SHOWN BY THE PUBLIC RECORDS.
3. DISCREPANCIES, CONFLICTS IN BOUNDARY LINES, SHORTAGE IN AREA, ENCROACHMENTS, AND ANY FACTS WHICH A CORRECT SURVEY AND INSPECTION OF THE PREMISES WOULD DISCLOSE AND WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS.
4. ANY LIEN, OR RIGHT TO A LIEN, FOR SERVICES, LABOR OR MATERIAL THERETOFORE OR HEREAFTER FURNISHED, IMPOSED BYLAW AND NOT SHOWN BY THE PUBLIC RECORDS.
5. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS, IF ANY, CREATED, FIRST APPEARING IN THE PUBLIC RECORDS OR ATTACHING SUBSEQUENT TO THE EFFECTIVE DATE HEREOF BUT PRIOR TO THE DATE THE PROPOSED INSURED ACQUIRES OF RECORD FOR VALUE THE ESTATE OR INTEREST OR MORTGAGE THEREON COVERED BY THIS COMMITMENT.
6. TAXES AND ASSESSMENTS FOR THE CURRENT YEAR AND SUBSEQUENT YEARS.

[COMPLETE EXCEPTIONS LIST]

EXHIBIT D

SOILS SUMMARY ADDENDUM

SOILS REPORT ATTACHED

EXHIBIT E

**A GUIDE TO SWELLING SOILS FOR COLORADO
HOME BUYERS AND HOMEOWNERS**

EXHIBIT F TO PURCHASE AND SALE AGREEMENT

DEFINITIONS OF REAL ESTATE BROKERAGE RELATIONSHIPS

Seller's Agent: A seller's agent works solely on behalf of the seller and owes duties to the seller, which include the utmost good faith, loyalty and fidelity. The agent will negotiate on behalf of and act as an advocate for the seller. The seller is legally responsible for the actions of the agent when that agent is acting within the scope of the agency. The agent must disclose to potential buyers or tenants all adverse material facts about the property actually known by the broker. A separate written listing agreement is required which sets forth the duties and obligations of the parties.

Buyer's Agent. A buyer's agent works solely on behalf of the buyer and owes duties to the buyer which include the utmost good faith, loyalty and fidelity. The agent will negotiate on behalf of and act as an advocate for the buyer. The buyer is legally responsible for the action of the agent when that agent is acting within the scope of the agency. The agent must disclose to potential sellers all adverse material facts concerning the buyer's financial ability to perform the terms of the transaction and whether the buyer intends to occupy the property. A separate written buyer agency agreement is required which sets forth the duties and obligations of the parties.

Transaction-Broker. A transaction-broker assists the buyer or seller or both throughout a real estate transaction with communication, advice, negotiation, contracting and closing without being an agent or advocate for any of the parties. The parties to a transaction are not legally responsible for the actions of a transaction-broker and a transaction-broker does not owe those parties the duties of an agent. However, a transaction-broker does owe the parties a number of statutory obligations and responsibilities, including using reasonable skill and care in the performance of any oral or written agreement. A transaction-broker must also make the same disclosures as agents about adverse material facts concerning a property or a buyer's financial ability to perform the terms of a transaction and whether the buyer intends to occupy the property. No written agreement is required.

LISTING BROKER IS WORKING WITH BUYER AS A:

Transaction Broker _____

Buyer Agent _____