



Executive Summary/Contract Approval			
Vendor Name:	Town of Frisco (Buyer)	PCS Contract Owner:	Mark Doherty
Routing No:	N/A	PCS Director:	Renee Kennedy
CORE #:	N/A	CORE Type:	CT
Agreement Name:	Contract to Buy and Sell Real Estate	Division Owner:	Daniel Chase
Division:	KAAA	Routing Date:	09/28/2022
New/Amendment:	New Agreement	Agreement Type:	External Agreement

Purpose:	CDLE is selling its building in Frisco to the Town of Frisco and including a Right of First Refusal to lease a portion of the new building after it is built.		
Vendor Selection Method:	Intergovernmental Agreement <input type="text"/> Selection # if Competitive: <input type="text"/> Date Sole Source Signed by PCS Director: <input type="text"/> Date Special Circumstance Approved by DPA: <input type="text"/> Date of Emergency Declaration: <input type="text"/>		
History:	CDLE began the process of selling the building at 602 Galena St, Frisco to the town of Frisco about one year ago. The parties negotiated terms and agreed to the attached purchase & sale contract. The Town of Frisco has already signed the contract and Right of First Refusal.		
Original Contract Value:	<input type="text"/>	Current Contract Value:	<input type="text"/>
Value of this Transaction:	\$2,491,080.71	New Total Value of Contract:	\$2,491,080.71
Scope Value Increase/Decrease:	Revenue to the state		
Contract Start Date:	09/28/2022	Current Contract End Date:	10/28/2022
		Maximum Contract End Date:	10/28/2022
Waivers/Pre-approvals Obtained:	<input type="text"/>		
Cost Savings:	Revenue		
Were there changes from the template contract language?	No		
Does this agreement have an IT component?	No		



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Required	Contract Reviewer	Initials/Date	Comments
<input checked="" type="checkbox"/>	Business Unit Representative or Program Contract Mgr: Daniel Chase	DS DC	Good
<input checked="" type="checkbox"/>	PCS General Unit Supervisor: Shayne Cumine	DS SC	for Renee Kennedy
<input checked="" type="checkbox"/>	PCS Unit Director: Shayne Cumine	DS SC	For Renee Kennedy
<input type="checkbox"/>	Personal Services Review:		
<input checked="" type="checkbox"/>	CORE Coding Check by Program Accountant: cdle_lease_encumbrances@state.co.us	DS JMA	Jerrid Mckinley Haywood
<input type="checkbox"/>	OIT (for all IT and telephony): Includes the OIT required internal approvals		
<input checked="" type="checkbox"/>	Program Budget Analyst: Jeanni Stefanik	DS JS	Approved
<input type="checkbox"/>	Counter Party: Town of Frisco		
<input checked="" type="checkbox"/>	Non-CDLE Approvers (DPA REP) : Cameron Kennedy	DS CK	Cameron Kennedy
<input checked="" type="checkbox"/>	Executive Director or Delegate: Joe Barela	DS JB	Approved
<input checked="" type="checkbox"/>	Delegated State Controller: Kelly Smith-Biesemeyer	DS KS	Approved
<input type="checkbox"/>	Risk Manager: Julie Mileham	DS Jm	Julie Mileham
<input type="checkbox"/>	AG's Office: LoriAnn Knutson	DS LK	Good
	RETURN FOLDER TO:		

AUTOMATIC RISK ASSESSMENT FORM

CORE #	CMS #	Contract Type	Vendor Name
N/A	N/A	Contract to Buy and Sell Real Estate	Town of Frisco (Buyer)

Instructions: PCS Contract Managers should complete this form for each contract or contract modification (including option letters and task orders) and include a copy of the completed form in the contract file.

Check all boxes that apply to your contract or contract modification. If a contract or contract modification falls into more than one automatic risk category, use the following rules to make your automatic risk determination:

- (1) High Risk and Low Risk = High Risk**
- (2) High Risk and No Risk = No Risk**
- (3) Low Risk and No Risk = No Risk**
- (4) High Risk, Low Risk and No Risk = No Risk**

Check all that apply	<u>Automatic High Risk Categories</u> Contracts and contract modifications that fall within the following categories shall always be determined to be high risk unless it also falls within one of the automatic no risk categories.
	Certificates of participation for shares of lease revenues.
	Contingency contracts, as defined in CRS §24-17-203.
	Contracts and modifications that are subject to a Statutory Violation that has not been ratified.
	Contracts concerning the operation of prisons.
	Contracts containing a limitation of liability, including limits on actions for which the contractor is liable, limits on the dollar amount of damages, the types of damages, the source of damage payments, or some combination thereof, unless OSC has determined the limitation of liability does not make the contract automatic high risk in writing.
	Contracts containing modifications to provisions that require a fiscal rule waiver, such as changes to the special provisions, unless OSC has determined the fiscal rule waiver does not make the contract automatic high risk in writing.
	Contracts where a party is a Native American tribe, unless on an unchanged OSC model contract form specifically designed for use with that Native American tribe.
	Dangerous activities contracts for services that are inherently dangerous that are likely to result in strict liability if the activity causes harm or that can cause significant harm even if performed properly.
	Debt collection contracts associated with any services for the collections or recovery of amounts due to the State.
	Employee voluntary separation agreements for either classified or non-classified employees.
	Energy performance contracts under CRS §§24-30-2003.
	Federal government contracts with agencies of the federal government unless on an unchanged OSC model contract form.
	Financing contracts where a third party will provide financing to the State, such as where the third party provides a loan to the State or provides the initial funding money that the State will repay to the third party from later revenues.
	Financial systems contracts for the acquisition of new or the replacement of existing financial systems.
	Legal issues contracts with technical legal issues requiring an opinion from the Colorado Attorney General.
	Lease purchase contracts.
	Hazardous materials contracts involving the handling, removal, treatment, movement, installation, and disposal of hazardous materials; any other materials, substances or wastes that are subject to increased liability under any state or federal environmental laws; or materials, substances or wastes that are dangerous instrumentalities. This does not include contracts for the discovery, analysis, study, and review of such materials.
	Information technology services contracts, except for purchases of consumer off-the-shelf software licenses, maintenance agreements for consumer off-the-shelf software or licenses to access databases or web content. This rule also applies to contracts for information technology goods if they are provided in conjunction with services.
	Master contracts by the Department of Personnel and Administration for the entire State (i.e, the RTD Eco Pass Program).
	Master task order contracts and task orders issued under those contracts.
	Outsource contracts as defined in Fiscal Rule 3-1.
	Settlement agreements that settle claims between the State and individuals and between the State and contractors.
	Statewide price agreement contracts and information technology enterprise agreements.
	Water rights contracts involving the purchase or sale of water rights. This does not apply to: 1) the purchase or sale of water rights and/or shares of stock in an irrigation district, a water district, a mutual ditch company, a water company, or similar entities included as part of or associated with the purchase or sale of real property; 2) participation in substitute water supply plans or in plans for augmentation of water resources; 3) the purchase or sale of fully consumable water.

Check all that apply	<u>Automatic Low Risk Categories</u> Contract and contract modifications that fall within the following categories shall always be determined to be low risk unless it also falls within a high risk or no risk category.
	Amendments that restate a contract to include all prior amendments and modifications in one updated document, that make changes required by and consistent with State law, that do not materially change the scope or requirements of the contract, or that reduce the scope and cost of the contract.
	Contracts for a specific program for which CDLE has received prior written approval from OSC for a specific template agreement, and CDLE uses that template agreement without modification. This includes any contracts that were authorized under the State Controller Policy entitled "Phase I Waivers."
	Grant Funding Change Letters in compliance with the OSC Policy "Modification of Contracts – Tools and Forms."
X	State-wide pre-approved contract forms, such as Office of the State Architect capital construction and controlled maintenance work authorizations, change orders, supplements, code reviews, and architect and engineering base agreements used without modification.
	Automatic High Risk contracts or contract modifications that OSC has determined in writing to be low risk or has granted us a waiver making low risk. If you select this category, include the waiver or written approval from OSC in the contract file.
Check all that apply	<u>Automatic No Risk Categories:</u> Contracts and contract modifications that fall within the following categories shall always be considered to be no risk regardless of whether the contract is also included as an automatic high risk or automatic low risk contract.
	Option letters used in accordance with the State Controller Policy entitled "Modification of Contracts –Tools and Forms," unless the contract the option letter modifies is subject to a Statutory Violation that has not been ratified (See State Controller Policy entitled "Statutory Violations").
	Amendments that do nothing than more than the following, unless the contract that the amendment modifies is subject to a Statutory Violation that has not been ratified (See State Controller Policy entitled "Statutory Violations"): 1) extend the term of a contract at rates and for a maximum amount already included in the contract, so long as such extension does not exceed any term included in a solicitation that was used to procure the contract; 2) increase or decrease the quantity of existing goods or services under the contract at the rates already included in the contract, so long as such increase is in compliance with the requirements and limits included in a solicitation that was used to procure the contract; 3) authorize the beginning of a phase of the contract, so long as all requirements and payments for that phase are already included in the contract; and/or 4) modify contract rates as specifically described within a contract.
	Interagency Agreements where all parties are Agencies of the State or are State Institutions of Higher Education. This does not apply if any of the parties are separate authorities or other governmental entities or political subdivisions.
	Undetermined Risk Contracts and Contract Modifications
Any contract or contract modification that is not automatic high risk, automatic low risk or automatic no risk contract shall be considered to be undetermined risk.	
If a contract or contract modification is considered to be undetermined risk, PCS should work with the program to complete <u>either</u> the "Risk Analysis for All New Contracts and Agreements" <u>or</u> the "Risk Analysis for all Modifications" form. PCS should make a final risk determination on the basis of the completed Risk Analysis form and include copies of both this form and the completed Risk Analysis form in the contract file.	
Name of PCS Representative:	Mark Doherty
Auto Risk Determination:	Auto High _____ Auto Low <u>X</u> _____ Auto No _____ Undetermined _____
All low risk and no risk contracts and contract modifications should be routed to CDLE's controller delegate for signature. All high risk contracts and contract modifications should be routed to the Office of the State Controller for OSC's signature.	

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(CBS3-6-21) (Mandatory 1-22)

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

CONTRACT TO BUY AND SELL REAL ESTATE
(COMMERCIAL)
(☒ Property with No Residences)
(☐ Property with Residences-Residential Addendum Attached)

9/29/2022
Date: _____

AGREEMENT

In accordance with section 24-30-202, C.R.S., this Contract shall not be valid until signed and dated by the State Controller or an authorized delegate.
1. AGREEMENT. Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

2. PARTIES AND PROPERTY.

2.1. Buyer. Town of Frisco, Colorado (Buyer) will take title to the Property described below as ☐ Joint Tenants ☐ Tenants In Common ☒ Other Tenant in Severalty.

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

2.3. Seller. State of Colorado acting by and through the Department of Labor and Employment (Seller) is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of Summit, Colorado (insert legal description):

Lots 13, 14, 15, 16, 17, 18, 19, 20 and 21, Block 3, Frisco Town Subdivision, County of Summit, State of Colorado

known as:	<u>602 Galena Street</u>	<u>Frisco</u>	<u>Colorado</u>	<u>80443</u>
	Street Address	City	State	Zip

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

2.5. Inclusions. The Purchase Price includes the following items (Inclusions):

2.5.1. Inclusions – Attached. If attached to the Property on the date of this Contract, the following items are included unless excluded under **Exclusions**: lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories) and garage door openers (including remote controls). If checked, the following are owned by the Seller and included: ☐ Solar Panels ☐ Water Softeners ☒ Security Systems ☐ Satellite Systems (including satellite dishes). Leased items should be listed under § 2.5.7. (Leased Items). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

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

2.5.3. Other Inclusions. The following items, whether fixtures or personal property, are also included in the Purchase Price:

N/A

2.5.4. Encumbered Inclusions. Any Inclusions owned by Seller (e.g., owned solar panels) must be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and encumbrances, except:

N/A

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

2.5.6. Parking and Storage Facilities. The use or ownership of the following parking facilities: N/A; and the use or ownership of the following storage facilities: N/A.
Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should investigate.

2.5.7. Leased Items. The following personal property is currently leased to Seller which will be transferred to Buyer at Closing (Leased Items):

N/A

2.5.8. Trade Fixtures. With respect to trade fixtures, Seller and Buyer agree as follows:

N/A

~~The trade fixtures to be conveyed at Closing will be conveyed by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except _____.~~ Conveyance will be by bill of sale or other applicable legal instrument.

2.6. Exclusions. The following items are excluded (Exclusions):

N/A

2.7. Water Rights/Well Rights.

☐

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

N/A

~~Any deeded water rights will be conveyed by a good and sufficient N/A deed at Closing.~~

☐

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

N/A

☐

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

N/A

☐

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

N/A

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

2.7.6. Water Rights Review. Buyer ☐ Does ☒ Does Not have a Right to Terminate if examination of the Water Rights is unsatisfactory to Buyer on or before the **Water Rights Examination Deadline**.

3. DATES, DEADLINES AND APPLICABILITY.

3.1. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 3	Time of Day Deadline	5:00 p.m.
2	§ 4	Alternative Earnest Money Deadline	7 Business Days after Effective Date (State Controller Delegate Signature)
		Title	
3	§ 8	Record Title Deadline (and Tax Certificate)	N/A
4	§ 8	Record Title Objection Deadline	N/A
5	§ 8	Off-Record Title Deadline	N/A
6	§ 8	Off-Record Title Objection Deadline	N/A
7	§ 8	Title Resolution Deadline	N/A
8	§ 8	Third Party Right to Purchase/Approve Deadline	N/A
		Owners' Association	
9	§ 7	Association Documents Deadline	N/A
10	§ 7	Association Documents Termination Deadline	N/A
		Seller's Disclosures	
11	§ 10	Seller's Property Disclosure Deadline	
12	§ 10	Lead-Based Paint Disclosure Deadline (if Residential Addendum attached)	N/A
		Loan and Credit	
13	§ 5	New Loan Application Deadline	N/A
14	§ 5	New Loan Terms Deadline	N/A
15	§ 5	New Loan Availability Deadline	N/A
16	§ 5	Buyer's Credit Information Deadline	N/A
17	§ 5	Disapproval of Buyer's Credit Information Deadline	N/A
18	§ 5	Existing Loan Deadline	N/A
19	§ 5	Existing Loan Termination Deadline	N/A
20	§ 5	Loan Transfer Approval Deadline	N/A
21	§ 4	Seller or Private Financing Deadline	N/A
		Appraisal	
22	§ 6	Appraisal Deadline	Buyer In Receipt of Appraisal
23	§ 6	Appraisal Objection Deadline	N/A
24	§ 6	Appraisal Resolution Deadline	N/A
		Survey	
25	§ 9	New ILC or New Survey Deadline	N/A
26	§ 9	New ILC or New Survey Objection Deadline	N/A
27	§ 9	New ILC or New Survey Resolution Deadline	N/A
		Inspection and Due Diligence	
28	§ 2	Water Rights Examination Deadline	N/A
29	§ 8	Mineral Rights Examination Deadline	N/A
30	§ 10	Inspection Termination Deadline	N/A
31	§ 10	Inspection Objection Deadline	N/A
32	§ 10	Inspection Resolution Deadline	N/A
33	§ 10	Property Insurance Termination Deadline	Closing Date
34	§ 10	Due Diligence Documents Delivery Deadline	N/A
35	§ 10	Due Diligence Documents Objection Deadline	N/A
36	§ 10	Due Diligence Documents Resolution Deadline	N/A
37	§ 10	Environmental Inspection Termination Deadline	N/A
38	§ 10	ADA Evaluation Termination Deadline	N/A
39	§ 10	Conditional Sale Deadline	N/A
40	§ 10	Lead-Based Paint Termination Deadline (if Residential Addendum attached)	N/A
41	§ 11	Estoppel Statements Deadline	N/A
42	§ 11	Estoppel Statements Termination Deadline	N/A
		Closing and Possession	
43	§ 12	Closing Date	October 28, 2022
44	§ 17	Possession Date	December 1, 2022
45	§ 17	Possession Time	10:00 a.m.
46	§ 27	Acceptance Deadline Date	Effective Date When State Controller Delegate Signs Contract

47	§ 27	Acceptance Deadline Time	N/A

3.2. Applicability of Terms. If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with “N/A”, or the word “Deleted,” such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of “None”, such provision means that “None” applies.

The abbreviation “MEC” (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The abbreviation “N/A” as used in this Contract means not applicable.

3.3. Day; Computation of Period of Days; Deadlines.

3.3.1. Day. As used in this Contract, the term “day” means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1. (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines and Termination Deadlines will end on the specified deadline date at the time of day specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of Day Deadline** is left blank or “N/A” the deadlines will expire at 11:59 p.m., United States Mountain Time.

3.3.2. Computation of Period of Days. In computing a period of days (e.g., three days after MEC), when the ending date is not specified, the first day is excluded and the last day is included.

3.3.3. Deadlines. If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☒ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

4. PURCHASE PRICE AND TERMS.

4.1. Price and Terms. The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1.	Purchase Price * See Attachment A	\$ 2,491,080.71*	
2	§ 4.3.	Earnest Money		\$ 249,108.07
3	§ 4.5.	New Loan		\$ N/A
4	§ 4.6.	Assumption Balance		\$ N/A
5	§ 4.7.	Private Financing		\$ N/A
6	§ 4.7.	Seller Financing		\$ N/A
7				
8				
9	§ 4.4.	Cash at Closing		\$ 2,241,972.64
10		TOTAL	\$ 2,491,080.71	\$ 2,491,080.71

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

4.3. Earnest Money. The Earnest Money set forth in this Section, in the form of a _____, will be payable to and held by _____ (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), ~~if any~~, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

4.3.1. Alternative Earnest Money Deadline. The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

4.3.2. Disposition of Earnest Money. If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller’s receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23

(Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money Release form), within three days of Buyer's receipt.

4.3.2.1. Seller Failure to Timely Return Earnest Money. If Seller fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in "If Seller is in Default", § 20.2. and § 21, unless Seller is entitled to the Earnest Money due to a Buyer default.

4.3.2.2. Buyer Failure to Timely Release Earnest Money. If Buyer fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in "If Buyer is in Default", § 20.1 and § 21, unless Buyer is entitled to the Earnest Money due to a Seller Default.

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

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

4.4.2. Time of Payment. All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing ~~or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing~~ **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT.**

4.4.3. Available Funds. Buyer represents that Buyer, as of the date of this Contract, ☒ **Does** ☐ **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

4.5. New Loan.

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

4.5.2. Buyer May Select Financing. Buyer may pay in cash or select financing appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in § 4.5.3. (Loan Limitations) or § 29 (Additional Provisions).

4.5.3. Loan Limitations. Buyer may purchase the Property using any of the following types of loans:
☐ **Conventional** ☐ **Other** N/A

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

Buyer agrees to pay a loan transfer fee not to exceed \$ N/A. At the time of assumption, the new interest rate will not exceed N/A % per annum and the new payment will not exceed \$ N/A per N/A principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$ N/A, or if any other terms or provisions of the loan change, Buyer has the Right to Terminate under § 24.1. on or before **Closing Date**.

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

4.7. Seller or Private Financing.

WARNING: Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on sellers and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a licensed Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics of financing, including whether or not a party is exempt from the law.

4.7.1. Seller Financing. If Buyer is to pay all or any portion of the Purchase Price with Seller financing, ☐ **Buyer** ☐ **Seller** will deliver the proposed Seller financing documents to the other party on or before N/A days before **Seller or Private Financing Deadline**.

4.7.1.1. Seller May Terminate. If Seller is to provide Seller financing, this Contract is conditional upon Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost, and compliance with the law. Seller has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in Seller's sole subjective discretion.

4.7.2. Buyer May Terminate. If Buyer is to pay all or any portion of the Purchase Price with Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions, and cost. Buyer has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.

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5. FINANCING CONDITIONS AND OBLIGATIONS.

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

5.2. New Loan Terms; New Loan Availability.

5.2.1. New Loan Terms. If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the proposed New Loan's payments, interest rate, conditions and costs or any other loan terms (New Loan Terms) are satisfactory to Buyer. This condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 24.1., on or before **New Loan Terms Deadline**, if the New Loan Terms are not satisfactory to Buyer, in Buyer's sole subjective discretion.

5.2.2. New Loan Availability. If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer's satisfaction with the availability of the New Loan based on the lender's review and underwriting of Buyer's New Loan Application (New Loan Availability). Buyer has the Right to Terminate under § 24.1., on or before the **New Loan Availability Deadline** if the New Loan Availability is not satisfactory to Buyer. Buyer does not have a Right to Terminate based on the New Loan Availability if the termination is based on the New Loan Terms, Appraised Value (defined below), the Lender Property Requirements (defined below), Insurability (§ 10.5. below) or the Conditional Upon Sale of Property (§ 10.7. below). **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).

5.3. Credit Information. If an existing loan is not to be released at Closing, this Contract is conditional (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this transaction. If the Cash at Closing is less than as set forth in § 4.1. of this Contract, Seller has the Right to Terminate under § 24.1., on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 24.1., on or before **Disapproval of Buyer's Credit Information Deadline**.

5.4. Existing Loan Review. If an existing loan is not to be released at Closing, Seller must deliver copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to Terminate under § 24.1., on or before **Existing Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right to Terminate under § 24.1., on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.

6. APPRAISAL PROVISIONS.

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

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

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

6.2.1.1. Notice to Terminate. Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated;
or

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

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

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

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

7. OWNERS' ASSOCIATIONS. This Section is applicable if the Property is located within one or more Common Interest Communities and subject to one or more declarations (Association).

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

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

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

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

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

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

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

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

7.3.6. Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2.

(Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

7.4. Conditional on Buyer's Review. Buyer has the right to review the Association Documents. Buyer has the Right to Terminate under § 24.1, on or before **Association Documents Termination Deadline**, based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).

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

8.1. Evidence of Record Title.

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

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

8.1.3. Owner's Extended Coverage (OEC). The Title Commitment ☒ **Will** ☐ **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by ☐ Buyer ☐ Seller ☒ **One-Half by Buyer and One-Half by Seller** ☐ **Other** _____. Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title, Resolution).

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

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

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

8.2. Record Title. Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1. (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

8.3. Off-Record Title. Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without

limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2. (Record Title) and § 13 (Transfer of Title), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Objection Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

8.4. Special Taxing Districts. 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. BUYERS 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.

8.5. Tax Certificate. A tax certificate paid for by ☐ Seller ☐ Buyer, for the Property listing any special taxing districts that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Tax Certificate and the inclusion of the Property in a special taxing district, if applicable, as satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in § 4.5.3, (Loan Limitations) prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

8.6. Third Party Right to Purchase/Approve. If any third party has a right to purchase the Property (e.g., right of first refusal on the Property, right to purchase the Property under a lease or an option held by a third party to purchase the Property) or a right of a third party to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the third-party holder of such right exercises its right this Contract will terminate. If the third party's right to purchase is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this Contract has not occurred on or before **Third Party Right to Purchase/Approve Deadline**, this Contract will then terminate. Seller will supply to Buyer, in writing, details of any Third Party Right to Purchase the Property on or before the **Record Title Deadline**.

8.7. Right to Object to Title, Resolution. Buyer has a right to object or terminate, in Buyer's sole subjective discretion, based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3. (Off-Record Title), § 8.5. (Special Taxing District) and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or before the applicable deadline, Buyer has the following options:

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

8.7.2. Title Objection, Right to Terminate. Buyer may exercise the Right to Terminate under § 24.1., on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

8.8. Title Advisory. The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations,

unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various laws and governmental regulations concerning land use, development and environmental matters.

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

8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR 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.

8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE 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.

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

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

8.9. Mineral Rights Review. Buyer ☐ Does ☒ Does Not have a Right to Terminate if examination of the Mineral Rights is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline**.

9. NEW ILC, NEW SURVEY.

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

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

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

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

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

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

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

9.3.1. Notice to Terminate. Notify Seller in writing, pursuant to § 24.1, that this Contract is terminated; or

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

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

DISCLOSURE, INSPECTION AND DUE DILIGENCE

10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY AND DUE DILIGENCE.

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

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

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

10.3.1. Inspection Termination. On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller pursuant to § 10.3.2.; or

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

10.3.3. Inspection Resolution. If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by executing an Earnest Money Release.

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

10.5. Insurability. Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and premium for property insurance (Property Insurance) on the Property, in Buyer's sole subjective discretion.

10.6. Due Diligence.

~~**10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**:~~

~~**10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):~~ N/A

~~**10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.7., Leased Items) will be transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information pertaining to the personal property to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☐ **Will** ☒ **Will Not** assume the Seller's obligations under such leases for the Leased Items (§ 2.5.7., Leased Items).~~

10.6.1.3. Encumbered Inclusions Documents. If any Inclusions owned by Seller are encumbered pursuant to § 2.5.4. (Encumbered Inclusions) above, Seller agrees to deliver copies of the evidence of debt, security and any other documents creating the encumbrance to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☐ Will ☐ Will **Not** assume the debt on the Encumbered Inclusions (§ 2.5.4., Encumbered Inclusions).

10.6.1.4. Other Documents. If the respective box is checked, Seller agrees to additionally deliver copies of the following:

- Property;
- ☐ **10.6.1.4.1.** All contracts relating to the operation, maintenance and management of the
- ☐ **10.6.1.4.2.** Property tax bills for the last _____ years;
- ☐ **10.6.1.4.3.** As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;
- ☐ **10.6.1.4.4.** A list of all Inclusions to be conveyed to Buyer;
- ☐ **10.6.1.4.5.** Operating statements for the past _____ years;
- ☐ **10.6.1.4.6.** A rent roll accurate and correct to the date of this Contract;
- ☐ **10.6.1.4.7.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;
- ☐ **10.6.1.4.8.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past _____ years;
- ☐ **10.6.1.4.9.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3.);
- ☐ **10.6.1.4.10.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;
- ☐ **10.6.1.4.11.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;
- ☐ **10.6.1.4.12.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and
- ☐ **10.6.1.4.13.** Other:

N/A

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

10.6.2.1. Notice to Terminate. Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated;

or

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

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

10.6.3. Zoning. Buyer has the Right to Terminate under § 24.1., on or before **Due Diligence Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

10.6.4. Due Diligence – Environmental, ADA. Buyer has the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable. ☐ Seller ☐ Buyer will order or provide **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or _____, at the expense of ☐ Seller ☐ Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and

evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

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

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

10.7. Conditional Upon Sale of Property. This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as N/A. Buyer has the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

10.8. Source of Potable Water (Residential Land and Residential Improvements Only). [Intentionally Deleted - See Residential Addendum if applicable]

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

10.10. Lead-Based Paint. [Intentionally Deleted - See Residential Addendum if applicable]

10.11. Carbon Monoxide Alarms. [Intentionally Deleted - See Residential Addendum if applicable]

10.12. Methamphetamine Disclosure. [Intentionally Deleted - See Residential Addendum if applicable]

11. TENANT ESTOPPEL STATEMENTS.

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

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

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

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

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

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

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

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

11.3. Estoppel Statements Termination. Buyer has the Right to Terminate under § 24.1., on or before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.

CLOSING PROVISIONS

12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

12.1. Closing Documents and Closing Information. Seller and Buyer will cooperate with the Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any

additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or before Closing.

12.2. Closing Instructions. Colorado Real Estate Commission's Closing Instructions ☐ Are ☒ Are Not executed with this Contract.

12.3. Closing. Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller agrees to deliver a set of keys for the Property to Buyer. The hour and place of Closing will be as designated by Buyer.

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

12.5. Assignment of Leases. ~~Seller must assign to Buyer all Leases at Closing that will continue after Closing and Buyer must assume Seller's obligations under such Leases. Further, Seller must transfer to Buyer all Leased Items and assign to Buyer such leases for the Leased Items accepted by Buyer pursuant to § 2.5.7. (Leased Items).~~

13. TRANSFER OF TITLE. Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing: ☐ special warranty deed ☒ general warranty deed ☐ bargain and sale deed ☐ quit claim deed ☐ personal representative's deed ☐ _____ deed. ~~Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing.~~

Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.

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

15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND WITHHOLDING.

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

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

15.3. Association Fees and Required Disbursements. At least fourteen days prior to **Closing Date**, Seller agrees to promptly request that the Closing Company or the Association deliver to Buyer a current Status Letter, if applicable. Any fees associated with or specified in the Status Letter will be paid as follows:

15.3.1. Status Letter Fee. Any fee incident to the issuance of Association's Status Letter must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ N/A.

15.3.2. Record Change Fee. Any Record Change Fee must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ N/A.

15.3.3. Assessments, Reserves or Working Capital. All assessments required to be paid in advance (other than Association Assessments as defined in § 16.2. (Association Assessments), reserves or working capital due at Closing must be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☐ N/A.

15.3.4. Other Fees. Any other fee listed in the Status Letter as required to be paid at Closing will be paid by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

15.4. Local Transfer Tax. Any Local Transfer Tax must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

15.5. Sales and Use Tax. Any sales and use tax that may accrue because of this transaction must be paid when due by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

15.6. Private Transfer Fee. Any private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller ☒ N/A.

15.7. Water Transfer Fees. Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed \$_____ for:

☐ Water Stock/Certificates ☐ Water District
☐ Augmentation Membership ☐ Small Domestic Water Company ☐ _____
 and must be paid at Closing by ☐ Buyer ☐ Seller ☒ One-Half by Buyer and One-Half by Seller ☐ N/A.

15.8. Utility Transfer Fees. Utility transfer fees can change. Any fees to transfer utilities from Seller to Buyer must be paid by ☐ Buyer ☐ Seller ☒ One-Half by Buyer and One-Half by Seller ☐ N/A.

15.9. FIRPTA and Colorado Withholding.

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

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

16. PRORATIONS AND ASSOCIATION ASSESSMENTS.

16.1. Prorations. The following will be prorated to the **Closing Date**, except as otherwise provided:

16.1.1. Taxes. Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on ☐ **Taxes for the Calendar Year Immediately Preceding Closing** ☐ **Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or ☒ **Other** Exemption from Federal Excise Tax & Section 39-26-704(1), et seq., C.R.S..

16.1.2. Rents. Rents based on ☐ **Rents Actually Received** ☐ **Accrued**. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address.

16.1.3. Other Prorations. Water and sewer charges, propane, interest on continuing loan and _____.

16.1.4. Final Settlement. Unless otherwise specified in Additional Provisions, these prorations are final.

16.2. Association Assessments. Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of ☐ **Buyer** ☐ **Seller**. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and N/A. Association Assessments are subject to change as provided in the Governing Documents.

17. POSSESSION. Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to the Leases as set forth in § 10.6.1.1.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of \$ _____ per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

GENERAL PROVISIONS

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

18.1. Causes of Loss, Insurance. In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney

requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

18.2. Damage, Inclusions and Services. Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

18.3. Condemnation. In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

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

19. RECOMMENDATION OF LEGAL AND TAX COUNSEL. By signing this Contract, Buyer and Seller acknowledge that their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must be complied with.

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

20.1. If Buyer is in Default:

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

20.1.2. Liquidated Damages, Applicable. This § 20.1.2. applies unless the box in § 20.1.1. is checked. Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

20.2. If Seller is in Default:

20.2.1. Specific Performance, Damages or Both. Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper. Alternatively, in addition to the per diem in § 17 (Possession) for failure of Seller to timely deliver possession of the Property after Closing occurs, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

20.2.2. Seller's Failure to Perform. In the event Seller fails to perform Seller's obligations under this Contract, to include, but not limited to, failure to timely disclose Association violations known by Seller, failure to perform any replacements or repairs required under this Contract or failure to timely disclose any known adverse material facts, Seller remains liable for any such failures to perform under this Contract after Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this Contract are reserved and survive Closing.

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

22. MEDIATION. If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This Section will not alter any date in this Contract, unless otherwise agreed.

23. EARNEST MONEY DISPUTE. Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

24. TERMINATION.

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

24.2. Effect of Termination. In the event this Contract is terminated, and all Earnest Money received hereunder is timely returned to Buyer, the parties are relieved of all obligations hereunder, subject to §§ 10.4. and 21.

25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS. This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

26. NOTICE, DELIVERY AND CHOICE OF LAW.

26.1. Physical Delivery and Notice. Any document or notice to Buyer or Seller must be in writing, except as provided in § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

26.2. Electronic Notice. As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or _____.

26.3. Electronic Delivery. Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

26.4. Choice of Law. This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

873 **27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and
 874 Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before
 875 **Acceptance Deadline Date and Acceptance Deadline Time.** If accepted, this document will become a contract between Seller and
 876 Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such
 877 copies taken together are deemed to be a full and complete contract between the parties.

878 **28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited
 879 to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations; Title Insurance,**
 880 **Record Title and Off-Record Title; New ILC, New Survey; and Property Disclosure, Inspection, Indemnity, Insurability and**
 881 **Due Diligence.**

ADDITIONAL PROVISIONS AND ATTACHMENTS

883 **29. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate
 884 Commission.)

885 29.1. Right of First Refusal Agreement is hereby incorporated into this Contract.

886 29.2. The following deed restriction is an additional provision to this Contract: Unless terminated
 887 in writing by Buyer and Seller, this Deed Restriction shall remain in effect for a period of 100
 888 years from the Closing date (the "Termination Date"). 29.2.1. Notwithstanding and without
 889 limiting any other provision of this Contract, Buyer acknowledges and agrees that any housing
 890 units built on the Property shall be available only to individuals or households whose gross annual
 891 household income does not exceed 125% of the area median income (adjusted for household
 892 size) for Summit County.
 893
 894

895 **30. OTHER DOCUMENTS.**

896 **30.1. Documents Part of Contract.** The following documents are a part of this Contract:


897 Exhibit A, Colorado Special Provisions; Exhibit B, CBRE Appraisal dated October 29, 2021;
 898 Exhibit C, CDLE/Frisco Agreement; Exhibit D, Form of Lease Agreement
 899

900 **30.2. Documents Not Part of Contract.** The following documents have been provided but are not a part of this Contract:
 901 N/A
 902
 903

SIGNATURES

904 Buyer's Name: Town of Frisco, Colorado

905 Buyer's Name: _____

 9/20/2022
 Buyer's Signature Date

Buyer's Signature Date

Rick Ihnken, Mayor Pro-Tempore

Address: 1 Main Street, Frisco, CO 80443 (Physical Address)

Address: _____

P.O. Box 4100, Frisco, CO 80443 (Mailing Address)

Phone No.: _____

Phone No.: _____

Fax No.: _____

Fax No.: _____

Email Address: RickI@townoffrisco.com

Email Address: _____

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

Seller's Name: State of Colorado Department of Labor and Employment

Seller's Name: _____

DocuSigned by:

Joseph Barla

9/29/2022

A96D82EAD82C45A

Seller's Signature
Joe Barla, Executive Director

Date

Seller's Signature

Date

Address: 600 17th Street, Suite 1200
Denver, Colorado 80202

Address:

Phone No.:

Phone No.:

Fax No.:

Fax No.:

Email Address: jbarla@state.co.us

Email Address:

END OF CONTRACT TO BUY AND SELL REAL ESTATE**BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.****A. Broker Working With Buyer**

Broker ☐ **Does** ☐ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a ☐ **Buyer's Agent** ☐ **Transaction-Broker** in this transaction.

☐ **Customer.** Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.

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

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: _____

Brokerage Firm's License #: _____

Broker's Name: _____

Broker's License #: _____

Broker's Signature

Date

Address: _____

Phone No.: _____

Fax No.: _____

Email Address: _____

B. Broker Working with Seller

Broker ☐ **Does** ☐ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a ☐ **Seller's Agent** ☐ **Transaction-Broker** in this transaction.

☐ **Customer.** Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship with Buyer.

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

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: _____
 Brokerage Firm's License #: _____
 Broker's Name: _____
 Broker's License #: _____

 Broker's Signature

 Date

Address: _____

 Phone No.: _____
 Fax No.: _____
 Email Address: _____

909

REAL ESTATE PROGRAMS
 STATE OF COLORADO
 Jared S. Polis, Governor
 DEPARTMENT OF PERSONNEL & ADMINISTRATION
 Office of State Architect, For the Executive Director

DocuSigned by:
Cameron Kennedy
 By: _____
 BEE097235D3E4EA...

9/29/2022

Date: _____

OFFICE OF RISK MANAGEMENT
 STATE OF COLORADO
 Jared S. Polis, Governor
 DEPARTMENT OF PERSONNEL & ADMINISTRATION
 For the Executive Director

DocuSigned by:
Julie Mileham
 By: _____
 FBB7F60CBB11442...

9/28/2022

Date: _____

LEGAL REVIEW
 DEPARTMENT OF LAW
 Philip J. Weiser, Colorado Attorney General
 ATTORNEY GENERAL (or Authorized Delegate)

DocuSigned by:
Philip J. Weiser
 By: _____
 74149D15D30EACE

First Assistant Attorney General

9/28/2022

Date: _____

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER:

CRS 24-30-202 requires that the State Controller approve all State contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The Landlord is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the good and/or services provided.

STATE OF COLORADO
 Jared S. Polis, Governor
 STATE CONTROLLER'S OFFICE
 State Controller (or Authorized Delegate)

DocuSigned by:
Kelly Smith-Biesemeyer
 By: _____
 C36ADFA27948478...

9/29/2022

Date: _____

ATTACHMENT A TO CONTRACT TO BUY AND SELL REAL ESTATE
(COMMERCIAL)

BUYER: TOWN OF FRISCO

SELLER: STATE OF COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT

Original Purchase Price – Appraised Value	\$3,000,000.00
Less:	
Demolition Costs	\$28,033.00
Term Lease Savings	\$125,747.27
Right of First Refusal Net Present Value	\$205,139.02
Tenant Finish	\$150,000.00
*Total Sale Price	\$2,491,080.71

EXHIBIT A TO CONTRACT TO BUY AND SELL REAL ESTATE

BUYER: TOWN OF FRISCO

SELLER: STATE OF COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT

COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in § 24-37.5-102(2.6), C.R.S., then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, § 24-30-1501, *et seq.*, C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of § 24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to § 24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in § 39-21-101, *et seq.*, C.R.S.; **(iii)** unpaid loans due to the Student Loan

Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

EXHIBIT B - RIGHT OF FIRST REFUSAL AGREEMENT

THIS RIGHT OF REFUSAL AGREEMENT (this “Agreement”) is entered into as of September 28, 2022, by and between the Town of Frisco, Colorado (the “Grantor”) and the State of Colorado acting by and through the Department of Labor and Employment (the “Grantee” or the “State”). The Grantor and the State are each a “Party” and Grantor and the State are collectively, the “Parties” to this Agreement.

RECITAL:

WHEREAS, once a new building is constructed and the office space is available to lease, the Grantor has agreed to grant to the State a right of first refusal to lease office space in the new building located at 602 Galena Street, Frisco, Colorado (the “ROFR Property”), subject to, and upon, the terms and conditions of this Agreement;

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each Party hereto, the Parties hereby agree to the following:

1. **Incorporation of Recital.** By this statement, the Recital above is hereby incorporated into this Agreement and made a part hereof.

2. **Right of First Refusal to Lease.** The Grantor hereby grants to the State, a right of first refusal to lease.

(a) Prior to Grantor entering into any lease or any rental agreement for office space in the Galena Property, Grantor shall provide written notice to the State of its intention to effect such a transaction (the “ROFR Notice”). The State shall have (30) “Business Days” (which means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays set forth at § 24-11-101(1), C.R.S.) after receipt of the ROFR Notice to notify the Grantor in writing (the “ROFR Acceptance Notice”) of its intent to lease the ROFR Property on the terms and conditions set forth in the ROFR Notice. The negotiation and execution of a mutually acceptable lease on the State’s Real Estate Programs Standard – Gross Lease attached to this Agreement as Exhibit A and hereby incorporated into this Agreement must occur no more than 120 calendar days after the date on which the State gave the Grantor the ROFR Acceptance Notice.

(b) If the State fails or elects not to give a timely ROFR Acceptance Notice, within 30 Business Days after the date on which the State gave the Grantor the ROFR Acceptance Notice, then the Grantor may proceed with leasing office space at its 602 Galena Street, Frisco, Colorado property.

3. **Term of Right of First Refusal.** The right of first refusal to lease provided to the State in this Agreement shall automatically terminate and be null and void with respect to any ROFR Property on the date that is 8 years from and after the date hereof.

4. **Short Form Memorandum.** The Parties agree to execute a short form memorandum of this Agreement to be recorded with the land records of Summit County. This Agreement shall not be recorded by either Party.

5. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado. Venue and jurisdiction shall be proper in the City and County of Denver.

6. **Notices.** (a) Any and all notices, demands, consents, approvals, offers, elections and other communications required or permitted under this Agreement shall be deemed adequately given if in writing and the same shall be delivered either by hand, by electronic mail with confirmed receipt, or by U.S. mail or Federal Express or similar expedited commercial carrier, addressed to the recipient of the notice, postage paid and registered or certified with return receipt requested (if by mail), or with all freight charges prepaid (if by Federal Express or similar carrier).

(b) All notices required or permitted to be sent hereunder shall be deemed to have been given for all purposes of this Agreement upon the date of acknowledged receipt, in the case of a notice by electronic mail, and, in all other cases, upon the date of receipt or refusal, except that whenever under this Agreement a notice is either received on a day which is not a business day or is required to be delivered on or before a specific day which is not a Business Day, the day of receipt or required delivery shall automatically be extended to the next Business Day.

(c) All such notices shall be addressed,

if to any Grantor, to:

Town of Frisco
P.O. Box 4100
Frisco, CO 80443
Attn: Don Reimer, Community Development Director
Phone: (970) 668-9130
Email: DonR@TownofFrisco.com

with a copy to:

if to the State, to:

State of Colorado, Department of Labor & Employment
Attn: Purchasing & Contracts Director
633 17th Street, Suite 1100
Denver, CO 80202
Phone: (303) 318-8000
Email: mark.doherty@state.co.us

with a copy to:

Office of the State Architect
Real Estate Programs
1525 Sherman Street, Suite 112
Denver, CO 80203
Email: dpa_statebuildings@state.co.us

(d) By notice given as herein provided, the Parties hereto and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses effective upon receipt by the other Party.

7. **Binding Effect.** This Agreement shall run with the ROFR Property, and shall be binding upon and shall inure to the benefit of the Parties hereto and their respective legal representatives, successors and permitted assigns.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the Grantor and the State have caused this Agreement to be executed by their respective duly authorized signatories as of the day and year first above written.

GRANTOR

Town of Frisco

By: 

Date: 9/28/2022

STATE OF COLORADO

Jared S. Polis, Governor
Department of Labor & Employment
Joe Barela, Executive Director

By: 

Date: 9/29/2022

REAL ESTATE PROGRAMS

STATE OF COLORADO

Jared S. Polis, Governor
DEPARTMENT OF PERSONNEL &
ADMINISTRATION
Office of State Architect, For the Executive
Director

By: 

Date: 9/29/2022

**ALL CONTRACTS MUST BE
APPROVED BY THE STATE
CONTROLLER:**

CRS 24-30-202 requires that the State Controller approve all State contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The Landlord is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the good and/or services provided.

OFFICE OF RISK MANAGEMENT

STATE OF COLORADO

Jared S. Polis, Governor
DEPARTMENT OF PERSONNEL &
ADMINISTRATION
For the Executive Director

By: 

State Risk Manager

Date: 9/28/2022

STATE OF COLORADO

Jared S. Polis, Governor
STATE CONTROLLER'S OFFICE
State Controller (or authorized Delegate)

By: 

Date: 9/29/2022

LEGAL REVIEW

DEPARTMENT OF LAW

Philip J. Weiser, Colorado Attorney General
ATTORNEY GENERAL (or authorized
Delegate)

By: 

Date: 9/28/2022

EXHIBIT D

**STATE OF COLORADO
DEPARTMENT OF PERSONNEL AND ADMINISTRATION
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAMS**



**STANDARD – [GROSS LEASE]
LEASE AGREEMENT [IMPROVED REAL PROPERTY]**

LANDLORD

TENANT

LOCATION

**STATE OF COLORADO
DEPARTMENT OF PERSONNEL AND ADMINISTRATION
OFFICE OF THE STATE ARCHITECT
REAL ESTATE PROGRAMS**

STANDARD LEASE AGREEMENT [IMPROVED REAL PROPERTY]

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LEASE AGREEMENT [Improved Real Property]

The printed portions of this form, except bold additions, have been reviewed
by the State Controller and/or the State of Colorado Attorney General and approved by the State Controller.
All additions to this form must be in bold type. All deletions must be shown by strike-through.

THIS LEASE AGREEMENT ("Lease") entered into by and between _____ whose address or principal place of business is _____, hereinafter referred to as "Landlord", and THE STATE OF COLORADO (the "State"), acting by and through the Department of _____ whose address is _____, hereinafter referred to as "Tenant". Both Landlord and Tenant may be referred to individually as a "Party", and shall collectively hereinafter be referred to as "Parties" to this Lease.

WITNESSETH:

WHEREAS, Landlord is willing to lease the Premises, defined herein, and Tenant desires to lease the Premises pursuant to the terms of this Lease; and

WHEREAS, Authority to enter into this Lease exists in the Law, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. PREMISES, TERM, RENT.

(A) Landlord hereby leases and demises unto Tenant the Premises, hereinafter referred to as "Premises" within the building located at _____, hereinafter referred to as "Building" (including land, improvements and other rights appurtenant thereto). The Premises, known and described as Suite _____, includes approximately _____ (_____) rentable square feet; the Premises as attached hereto and incorporated by reference herein as "Exhibit A".

(B) TO HAVE AND TO HOLD the same, together with all appurtenances, unto Tenant, for the term beginning the later of _____, 20__ or the date the Colorado State Controller approves the Lease ("Commencement Date"), and ending _____, 20__, at and for a monthly rental (the "Monthly Rent") for the full term as shown below:

_____ sq. ft.	NEGOTIATE D ANNUAL RENT/ RSF	REAL ESTATE PROPERTY TAXES RSF*	ADJUSTED ANNUAL RENT/ RSF*	MONTHLY RENT*	TERM RENT*
TERM DATES	RSF	RSF*	RSF*	RENT*	RENT*
07/01/19 - 06/30/20	\$	(\$)	\$	\$	\$
07/01/20 - 06/30/21	\$	(\$)	\$	\$	\$
07/01/21 - 06/30/22	\$	(\$)	\$	\$	\$

*Reduces Rent by the Estimated Property Tax known at the time of drafting this document.

1) §39-3-124 C.R.S., exempts real property leased by the State of Colorado from the levy and collection of property taxes. Therefore, the Adjusted Annual Rent/RSF as shown above does not include the Taxes known at the time of drafting of \$___/rsf or any tax based upon real property as defined

and required by Article 15; when the current year Taxes are known, the Monthly Rent payment shall be adjusted accordingly.

2) At the Commencement Date, Tenant will have on account for its benefit a rent credit in the amount of \$____,____ pursuant to Exhibit C attached hereto and incorporated by reference herein. Such amount shall be applied against Rent, Tenant Improvements, and/or Furniture Fixtures & Equipment at the sole discretion of and request by Tenant.

3) The Premises are to be used and occupied as **general office** space. Payment of the Monthly Rent shall be made on the first of each month during the term hereof, to Landlord at:

or at such place as Landlord from time to time designates by notice as provided herein, subject to the limitations and conditions set forth in Article 11 Fiscal Funding, Article 12 Federal Funding, or Article 20 Collocation, herein.

4) If the term herein commences on a day other than the first day of a calendar month, then Tenant shall pay to Landlord the rental for the number of days that exist prior to the first day of the succeeding month and the first month of the Lease shall be the first full calendar month Tenant is in occupancy of the Premises.

2. SERVICES.

(A) Landlord Provided Services: Landlord shall provide to Tenant during the occupancy of said Premises, as a part of the rental consideration, the following services comparable to those provided by other office buildings of similar quality, size, age and location, in the _____ submarket. The services shall include but not necessarily be limited to the following:

1) Services to Premises.

(a) Heat, ventilation and cooling as required for the comfortable use and occupancy of the Premises during normal business hours. Landlord shall at all times be responsible for providing heat, ventilating and air conditioning (HVAC) services in quantities and distributions sufficient for Tenant's use of the Premises, including rebalancing of the HVAC distribution system as necessary, and also including service, repair and/or replacement (which replacement shall be considered a capital improvement) of equipment, parts and accessories for the HVAC units and systems serving the Premises. Landlord shall ensure that the HVAC capacity provided to service the Building is sufficient to maintain year round temperatures within the 70°F-74°F range in the Premises;

(b) Landlord shall provide Building-standard janitorial services. Janitorial services shall be provided a minimum of five (5) times per week, except legal holidays, and include all supplies and materials. Interior and exterior window washing shall be completed a minimum of two (2) times per year.

(c) Provide and pay for electric power as supplied by the local utility company.

(d) Replacement of Building standard lighting.

2) Building Service.

(a) Domestic running water and necessary supplies in washrooms sufficient for the normal use thereof by occupants in the Building;

(b) Access to and egress from the Premises, including elevator service maintenance, repair and replacement customary for buildings of similar age and quality, if included in the Building;

(c) Snow removal, sidewalk repair and maintenance, landscape maintenance, pest control, and trash removal services;

(d) HVAC, lighting, electric power, domestic hot and cold running water and janitorial service in those areas of the Building designated by Landlord for use by Tenant, in common with all tenants and other persons in the Building during normal business hours, but under the exclusive control of Landlord;

(e) A general directory board on which Tenant shall be entitled to have its name shown, provided that Landlord shall have exclusive control thereof and of the space thereon to be allocated to each Tenant;

(f) Landlord shall at all times be responsible for paying real estate taxes and assessments, including real property taxes, special improvement district taxes or fees or other special district taxes or charges for which Tenant is not eligible for a tax exemption, subject to Article 15. Tenant shall be responsible for all taxes and assessments on Tenant's personal property, if any.

3) Maintenance, Repair and Replacement.

(a) Landlord shall operate, maintain, repair and replace the systems, facilities and equipment necessary for the proper operation of the Building and for provision of Landlord's services under Article 2(A)1) and 2) above and shall maintain and repair the foundations, structure and roof of the Building and repair damage to the Building which Landlord is obligated to insure against under this Lease.

4) Additional Services.

(a) Maintenance of parking lot and/or structure, maintenance of the external lighting devices for the Building parking lot and/or structure. Maintenance, repair and replacement of Tenant Improvements for damage caused by shifting of or leaking around the foundation or of any other structural aspect or system of the Building.

(b) Maintain the Premises in good repair and in tenantable condition during the term of this Lease. Landlord shall have the right to enter the Premises at reasonable times for the purpose of making necessary inspections, repairs or maintenance.

(c) The "normal business hours" of operation of the Building shall be from 7:00 a.m. to 6:00 p.m. Monday through Friday and 8:00 a.m. to 2:00 p.m. on Saturdays, excepting legal holidays, which shall include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas. Landlord shall provide additional hours of operation for the Premises upon 24 hours prior notice to Landlord from Tenant at no additional cost to Tenant.

(B) Tenant Provided Services: None.

3. INTERRUPTION OF SERVICES. Notwithstanding anything in this Lease to the contrary, if there is an interruption in essential services to the Premises (including, but not limited to HVAC, electrical service, elevator service), and such interruption continues for a period of five (5) consecutive days, Tenant shall be entitled to an abatement of rent for the period that such services are not provided to the extent

that such interruption interferes with the use of the Premises by Tenant. If such interruption continues for a period of ninety (90) days, Tenant may cancel and terminate this Lease without penalty.

4. WORK REQUIREMENTS.

- ☐ Tenant shall take the Premises without Tenant Improvements unless otherwise specified herein;
- ☐ All tenant finish alterations in the Premises, now and hereafter undertaken, shall be designed and constructed in accordance with the technical design specifications of the Uniform Federal Accessibility Standards, latest edition. Prior to the Premises being occupied by Tenant, Landlord agrees to the tenant improvements described in Exhibit D, attached hereto and made a part hereof.

5. LANDLORD'S REPRESENTATIONS.

(A) Landlord represents that either:

- 1) no "asbestos response action", pursuant to that portion of the Colorado Air Quality Control Commission, Regulation 8 entitled Emission Standards for Asbestos, hereafter referred to as "Regulation 8", is contemplated as a part of the tenant finish for this Lease; or
- 2) in the event that an "asbestos response action" is contemplated as a part of the tenant improvements for this Lease, Landlord agrees to fully cooperate with Tenant in Tenant's exercise of its duties and responsibilities in accordance with Section V of Part B of Regulation 8.

(B) Landlord, in Landlord's sole opinion, represents that with respect to this Lease and the Premises, the Building meets the requirements of the Americans with Disabilities Act.

(C) Landlord must meet all local codes and regulations with regard to fire and life safety during the term of the State of Colorado's occupancy of the Premises as mandated by local authorities.

6. **LANDLORD'S OWNERSHIP.** Landlord warrants and represents itself to be the owner, or the authorized representative or agent of the owner, of the Premises in the form and manner as stated herein. During the term of this Lease Landlord covenants and agrees to warrant and defend Tenant in the quiet, peaceable enjoyment and possession of the Premises. In the event of any dispute regarding Landlord's ownership, upon request from and at no cost to Tenant, Landlord shall immediately, furnish proof thereof by delivering to Tenant an "Ownership and Encumbrance Letter" issued by a properly qualified title insurance company.

7. **LEASE ASSIGNMENT.** Tenant shall have the right to assign or sublease its interest under this Lease or portion thereof to a State agency or a State institution of higher education. Such arrangement will be memorialized in an amendment to this lease. Tenant shall not otherwise assign this Lease or sublet the Premises, except to a desirable tenant for a similar use and purpose, and will not permit the use of said Premises to anyone, other than Tenant, its agents or employees, without the prior written consent of Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed.

8. **EMINENT DOMAIN, TERMINATION OF LEASE.** If the Premises are taken via eminent domain, in whole or in part, then either Party may cancel and terminate this Lease and the current rent shall be properly apportioned to the date of such taking. In such event the entire damages which may be awarded shall be apportioned between Landlord and Tenant, as their interests appear.

9. **DAMAGE AND DESTRUCTION.** If the Premises are rendered uninhabitable or unfit for Tenant's purposes by fire, natural disaster, or other casualty, and the Premises cannot be repaired within a reasonable amount of time as mutually and reasonably determined by both Parties, this Lease will immediately terminate and no rent shall accrue from the date of such fire or casualty. If the Premises are

damaged by fire, natural disaster, or other casualty so that there is partial destruction of such Premises or such damage as to render the Premises partially uninhabitable or partially unfit for Tenant's purposes, Tenant may, within five (5) days of such occurrence, terminate this Lease by giving written notice to the Landlord. Such termination shall be effective not less than fifteen (15) days from the date of mailing of the notice. Rent shall be apportioned to the effective date of termination.

10. **HOLDING OVER.** The Lease shall be extended on a month-to-month basis if Tenant fails to vacate the Premises upon expiration or sooner termination of this Lease. The rent to be paid by Tenant during such continued occupancy shall be the same being paid by Tenant as of the date of expiration or sooner termination, subject to Article 15. Landlord and Tenant each hereby agree to give the other Party at least thirty (30) days written notice prior to termination of any holdover tenancy.

11. **FISCAL FUNDING.**

(A) As set forth in State of Colorado Fiscal Rules and §23(B) below, this Lease is dependent upon the continuing availability of funds beyond the term of the State's current fiscal period ending upon the next succeeding June 30, as financial obligations of the State of Colorado payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. While the act of appropriation is a legislative act, Tenant will take appropriate actions under the laws applicable to Tenant to timely and properly budget for, request of and seek and pursue appropriation of funds from the General Assembly of the State of Colorado permitting Tenant to make payments required hereunder during the period to which such appropriation applies. If funds are not appropriated, this Lease shall terminate upon the exhaustion of such appropriation, with no penalty or additional cost to Tenant. Tenant shall notify Landlord of such non-allocation of funds by sending written notice thereof to Landlord forty-five (45) days prior to the effective date of termination.

(B) Tenant's obligation to pay rent hereunder constitutes a current expense of Tenant payable exclusively from Tenant's funds and shall not in any way be construed to be a general obligation indebtedness of the State of Colorado or any agency or department thereof within the meaning of any provision of §§ 1,2,3,4, or 5 of Article XI of the Colorado Constitution, or any other constitutional or statutory limitation or requirement applicable to the State concerning the creation of indebtedness. Neither Tenant, nor Landlord on its behalf, has pledged the full faith and credit of the State, or any agency or department thereof to the payment of the charges hereunder, and this Lease shall not directly or contingently obligate the State or any agency or department thereof to apply money from, or levy or pledge any form of taxation to, the payments due hereunder.

12. **FEDERAL FUNDING.** If any or all funds for payment of this Lease are provided by the Federal Government, this Lease is subject to and contingent upon the continuing availability of Federal funds, and if such funds are not made available, Tenant may unilaterally terminate this Lease at the end of any month after providing ninety (90) days written advance termination notice to Landlord.

13. **NOTICE.** Any notice required or permitted by this Lease may be delivered in person or sent by registered or certified mail, return receipt requested, to the Party at the address as hereinafter provided, and if sent by mail it shall be effective when posted in the U.S. Mail Depository with sufficient postage attached thereto:

Landlord:

Tenant:

With a copy to:

Office of the State Architect
Real Estate Programs

1525 Sherman Street, Suite 112
Denver, CO 80203

Notice of change of address shall be treated as any other notice.

14. **CONSENT.** Unless otherwise specifically provided, whenever consent or approval of Landlord or Tenant is required under the terms of this Lease, such consent or approval shall not be unreasonably withheld or delayed and shall be deemed to have been given if no response is received within thirty (30) days of the date the request was made. If either Party withholds any consent or approval, such Party shall, after written request, deliver to the other Party a written statement giving the reasons therefore.

15. **TENANT'S TAX EXEMPT STATUS.** The Parties acknowledge § 39-3-124(1)(b) C.R.S., effective January 1, 2009, exempts the Premises from levy and collection of property tax including Assessed Tax, Special Assessment Tax, Maintenance District, Local Improvement Assessment, Fees and Interest (collectively "Taxes") while leased by Tenant for State purposes and that Landlord shall not receive a levy for property taxes from the County Assessor on the Premises occupied by Tenant during the term of the Lease and any extensions thereof. Tenant shall timely file a copy of the Lease, and any extensions or amendments thereof, with the County Assessor. If the Lease terminates prior to the end date provided for in Article 1(B), or any extension or amendments thereof (early termination), Tenant shall timely file notice of the early termination date with the County Assessor.

Tenant's Monthly Rent obligation, per Article 1(B), shall be decreased by the amount of the reduction in Taxes on a monthly prorated basis. So long as Landlord receives an abatement of Taxes from the County Assessor, by reason of Tenant's operation as an agency or department of the State of Colorado:

(A) Tenant shall receive a credit against its Monthly Rent beginning with the Commencement Date based upon the latest tax information known at the time the lease is prepared for execution. This credit shall be reconciled upon the availability of the tax information for the relevant tax year; and

(B) Beginning with the availability of the tax information for the relevant tax year Tenant shall receive an on-going credit against its Monthly Rent which shall be reconciled annually.

16. **TENANT LIABILITY EXPOSURE.** Notwithstanding any other provision of this Lease to the contrary, no term or condition of this Lease shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act, § 24-10-101, *et seq.* C.R.S. Liability for claims for injuries to persons or property arising out of the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, *et seq.*, C.R.S. and § 24-30-1501, *et seq.*, C.R.S. All provisions of this Lease are controlled, limited and otherwise modified to limit any liability of Tenant in accordance with the foregoing cited statutes.

17. **SECURITY DEPOSIT.** Tenant shall not provide a security deposit to Landlord.

18. **INSURANCE.**

(A) Landlord Insurance. Landlord and Landlord's contractors shall carry and maintain the following insurance coverage with respect to the Premises during the Lease term:

1) Commercial General Liability Insurance covering operations by, or on behalf of, Landlord on an occurrence basis against claims for bodily injury, property damage and personal injury liability with minimum limits of (a) \$1,000,000 each occurrence; (b) \$2,000,000 general aggregate; (c) \$2,000,000 products and completed operations aggregate.

2) Property Insurance covering the Building, including the Premises, its equipment, and Landlord's interest in improvements and betterments on an "All Risk" basis, including where appropriate the perils of Flood and Earthquake. Coverage shall be written with a Replacement Cost valuation and include an agreed value provision. The deductible amount shall not exceed \$25,000 unless approved by Tenant. The policy shall also include a rental income extension.

3) Workers' Compensation Coverage for employees of Landlord as required by law and employer's liability insurance.

4) All policies shall be written with carriers approved to do business in the State of Colorado with an A.M. Best Rating of at least A- VII and shall contain a Waiver of Subrogation on behalf of Tenant. The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 30 days prior notice to Landlord and Landlord shall forward such notice to the State within seven days of Landlord's receipt of such notice. Landlord shall provide Tenant certificates of Insurance confirming renewal of the coverage at least fifteen (15) days prior to expiration.

(B) Tenant Insurance. Tenant shall provide insurance on its inventory, equipment, and all other personal property located on the Premises against loss resulting from fire or other casualty at Tenant's sole cost. Tenant shall have the right to provide such insurance under a self-insurance program, or, at any time during the term of this Lease, to provide such insurance through an insurance company. With respect to general liability, Tenant is self-insured in accordance with the provisions of the Colorado Governmental Immunity Act set forth at § 24-10-101, *et seq.*, C.R.S. and the Colorado Risk Management Act, § 24-30-1501, *et seq.*, C.R.S.

19. CONVEYANCE OF THE PREMISES, ASSUMPTION OF LEASE, ATTORNMENT AND NON-DISTURBANCE.

(A) If Landlord assigns this Lease or if the Premises are sold, transferred or conveyed, (all collectively called "Assignment"), within ten (10) days of the Assignment of the Lease, Landlord shall provide Tenant notice thereof pursuant to Article 13 of this Lease in a form substantially in conformity with that described in Exhibit B. Said notice shall include the name and address of the New Landlord (any assignee of this Lease, or any purchaser of the Premises, or any other successor owner or assignee of Landlord through foreclosure or deed in lieu of foreclosure [the "New Landlord"]), the New Landlord's Social Security or Federal Employer's Identification Number, and documentation evidencing the Lease Assignment, whether it be an assignment and assumption of Lease, deed or other transfer.

(B) If Landlord fails to provide Tenant the notice of Assignment provided for in the preceding paragraph (A) and Tenant receives written notice from a third-party claiming to be the New Landlord under a transaction constituting an Assignment of Lease, and the New Landlord provides Tenant the evidence of transfer specified in paragraph (A), Tenant shall provide Landlord written notice of the New Landlord's claim at the address provided for in Article 13. If Landlord does not contest the New Landlord's claim in writing to Tenant within ten (10) days from the date of Tenant's written Notice to Landlord, Tenant may recognize the New Landlord as Landlord under the Lease and shall thereafter pay the monthly rent and other obligations under the Lease to the New Landlord and Landlord shall have waived any further rights under the Lease and shall be barred from further rights thereunder, including, but not limited to, the right to receive rent. In addition, any Tenant audit rights (see Article 26(C)4)) which resulted in a monetary obligation due the Tenant shall then become the full responsibility of the New Landlord.

(C) The New Landlord's title, right and interest in the Premises, however acquired, shall be subject to all Lease provisions, including, not limited to, the non-disturbance of Tenant's possession of the Premises and Tenant shall recognize the New Landlord as Landlord under the Lease. Tenant's attornment to the New Landlord shall not waive any rights of Tenant against the prior Landlord. All payments previously made by Tenant to the prior Landlord and all other previous actions taken by Tenant under the Lease shall be considered to have discharged those obligations of Tenant under the Lease.

The New Landlord's acceptance of the rent payment provided for in the Lease shall constitute the New Landlord's assumption of the Lease and obligations of the Landlord's thereunder.

20. **COLLOCATION.** If the State builds, leases, or otherwise acquires a building for the purpose of collocating in one area, State agencies, State institutions of higher education, or sections, divisions, or functional groups within the State, or designates an existing State or political subdivision thereof real property interest for such collocation of Tenant, this Lease may be terminated by Tenant by giving written notice to Landlord not less than sixty (60) days prior to Tenant's intent to vacate and terminate the Lease. Following the date of such termination stated in the written notice to Landlord, Tenant shall not be liable to perform any of its obligations under this Lease, including, but not limited to rental payments, following the date of such termination.

21. **INDEPENDENT CONTRACTOR.** 4 CCR §801-2. The Landlord shall perform its duties hereunder as an independent contractor and not as an employee. Neither Landlord nor any agent or employee of Landlord shall be or shall be deemed to be an agent or employee of the State. Landlord shall pay when due all required employment taxes and income tax and local head tax on any monies paid by the State pursuant to this Lease. Landlord acknowledges that Landlord and its employees are not entitled to unemployment insurance benefits unless Landlord or third party provides such coverage and that the State does not pay for or otherwise provide such coverage. Landlord shall not have authorization, express or implied, to bind the State to any agreements, liability, or understanding except as expressly set forth herein. Landlord shall provide and keep in force Workers' Compensation (and provide proof of such insurance when requested by the State) and unemployment compensation insurance in the amounts required by law, and shall be solely responsible for the acts of Landlord, its employees and agents.

22. **NO VIOLATION OF LAW.**

(A) § 18-8-301, *et seq.*, C.R.S. and § 18-8-401, *et seq.*, C.R.S. The signatories hereto aver that they are familiar with § 18-8-301, *et seq.*, C.R.S. (Bribery and Corrupt Influences) and § 18-8-401, *et seq.*, C.R.S. (Abuse of Public Office), and that no violation of such statutes has occurred under this Lease.

(B) § 24-76.5-101, *et seq.*, C.R.S. Landlord, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of § 24-76.5-101 *et seq.*, C.R.S. and (c) has produced one form of identification required by § 24-76.5-103 C.R.S. prior to the effective date of this Lease.

23. **COLORADO SPECIAL PROVISIONS**

(A) **CONTROLLER'S APPROVAL.** § 24-30-202 (1), C.R.S. This contract shall not be valid until it has been approved by the Colorado State Controller or designee.

(B) **FUND AVAILABILITY.** § 24-30-202 (5.5), C.R.S. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

(C) **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Lease. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution. The Landlord shall strictly adhere to all applicable federal and State laws, rules, and regulations that have

been or may hereafter be established, including those dealing with discrimination and unfair employment practice, in performing its obligations under the Lease.

(D) **LANDLORD/VENDOR OFFSET.** §§ 24-30-202 (1), C.R.S. and 24-30-202.4, C.R.S. Subject to § 24-30-202.4 (3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (a) unpaid child support debts or child support arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in § 39-21-101, *et seq.*, C.R.S.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the State as a result of final agency determination or judicial action.

(E) **EMPLOYEE FINANCIAL INTEREST.** § 24-18-201, C.R.S. and § 24-50-507, C.R.S. The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the service or property described herein.

24. **BROKER REPRESENTATION:** Landlord and Tenant acknowledge that _____ is acting as a Landlord Agent on behalf of Landlord in this transaction and _____ ("_____") is acting as a Tenant Agent on behalf of Tenant in this transaction. Further, Landlord and Tenant acknowledge that in consideration of _____ acting as a Tenant Agent on behalf of the State of Colorado in this transaction, it will receive a leasing commission by separate agreement with _____.

25. GENERAL PROVISIONS

(A) **Binding Effect.** All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

(B) **Captions.** The captions and headings in this Lease are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

(C) **Construction Against Drafter.** In the event of an ambiguity in this Lease the rule of Lease construction that ambiguities shall be construed against the drafter shall not apply and the Parties hereto shall be treated as equals and no Party shall be treated with favor or disfavor.

(D) **Counterparts.** This Lease may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

(E) **Entire Understanding.** This Lease represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or effect whatsoever, unless embodied herein.

(F) **Jurisdiction and Venue.** All suits or actions related to this Lease shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

(G) **Modification.**

1) **By the Parties.** Except as specifically provided in this Lease, modifications hereof shall not be effective unless agreed to in writing by the Parties in an amendment hereto, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules, and Office of the State Controller Policies, including, but not limited to, the policy entitled MODIFICATION OF LEASES - TOOLS AND FORMS.

2) **By Operation of Law.** This Lease is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Lease on the effective date of such change, as if fully set forth herein.

(H) **Order of Precedence.** The provisions of this Lease shall govern the relationship of the State and Landlord. In the event of conflicts or inconsistencies between this Lease and its exhibits and attachments, including, but not limited to, those provided by Landlord, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- 1) Colorado Special Provisions,
- 2) The remaining provisions of the main body of this Lease,
- 3) Exhibit A, Premises,
- 4) Exhibit C, Commission Sharing,
- 5) Exhibit B. Notice of Assignment,
- 6) Exhibit D, Tenant Improvements (where applicable).

(I) **Severability.** Provided this Lease can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this Lease in accordance with its intent.

(J) **Survival of Certain Lease Terms.** Notwithstanding anything herein to the contrary, provisions of this Lease requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Landlord fails to perform or comply as required.

(K) **Taxes Other than Real Property.** The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under §§ 39-26-101 and 201, *et seq.*, C.R.S. Such exemptions apply when materials are purchased or services are rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Landlord shall be solely liable for paying such taxes as the State is prohibited from paying or reimbursing Landlord for such taxes.

(L) **Third Party Beneficiaries.** Enforcement of this Lease and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Lease are incidental to the Lease, and do not create any rights for such third parties.

(M) **Waiver.** Waiver of any breach under a term, provision, or requirement of this Lease or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

(N) **Extinguishment and Replacement.** This Lease extinguishes and replaces any prior leases between the Parties related to the Premises upon the Commencement Date hereof.

(O) **Quiet Enjoyment.** The State shall be entitled to quiet enjoyment of the Premises as long as it is not in default under the provisions hereof.

(P) CORA Disclosure. To the extent not prohibited by federal law, this Lease and the performance measures and standards under § 24-103.5-101, C.R.S. if any, are subject to public release through the Colorado Open Records Act, § 24-72-101, *et seq.*, C.R.S.

(Q) Indemnification. Landlord shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred by any of the Indemnified parties as a result of any act or omission by Landlord, or its employees, agents, subcontractors, or assignees in connection with this Lease. The provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions, of the Colorado Governmental Immunity Act, § 24-10-101, *et seq.*, C.R.S.

26. ADDITIONAL RENT. NONE

27. ADDITIONAL PROVISIONS.

IN WITNESS WHEREOF, the Parties hereto have executed this Lease

LANDLORD

TENANT

STATE OF COLORADO

Jared S. Polis, Governor

The Department of _____

By: _____
Authorized Signatory

By: _____
Executive Director

Name (Print) Title (Print)

Date: _____

REAL ESTATE PROGRAMS

STATE OF COLORADO

Jared S. Polis, Governor

DEPARTMENT OF PERSONNEL & ADMINISTRATION

Office of State Architect, For the Executive Director

By: _____

Date: _____

**ALL CONTRACTS MUST BE APPROVED BY THE
STATE CONTROLLER:**

CRS 24-30-202 requires that the State Controller approve all State contracts. This contract is not valid until the State Controller, or such assistant as he may delegate, has signed it. The Landlord is not authorized to begin performance until the contract is signed and dated below. If performance begins prior to the date below, the State of Colorado may not be obligated to pay for the good and/or services provided.

OFFICE OF RISK MANAGEMENT

STATE OF COLORADO

Jared S. Polis, Governor

DEPARTMENT OF PERSONNEL & ADMINISTRATION

For the Executive Director

By: _____
State Risk Manager

Date: _____

STATE OF COLORADO

Jared S. Polis, Governor

STATE CONTROLLER'S OFFICE

State Controller (or authorized Delegate)

By: _____

Date: _____

LEGAL REVIEW

DEPARTMENT OF LAW

Philip J. Weiser, Colorado Attorney General

ATTORNEY GENERAL (or authorized Delegate)

By: _____

Date: _____

EXHIBIT A
PREMISES

EXHIBIT B

NOTICE OF ASSIGNMENT OF LEASE
ASSUMPTION OF LEASE BY NEW LANDLORD

Date: _____

_____, Tenant

[Tenant]
[Tenant's Address for Notice
(See Art. 13 of Lease)]

Re: Lease for: _____,
dated _____
_____, Landlord

[Lease Address
(See Art. 1 of Lease)
[Landlord]

Dear Tenant:

Pursuant to Article 13 of the above referenced Lease, Tenant is hereby notified that on _____
[date], the Lease was assigned to:

_____ [Name/Address of New Landlord], the "New Landlord."

The New Landlord's W-9 is attached.

Evidence of the transaction constituting the Assignment of Lease is by [mark as is appropriate]: __
Assignment and Assumption of Lease; __ Deed _____ [Type of Deed]; __ Other [Specify] _____
_____; dated, which document is attached and made part hereof.

Tenant's rental obligations after _____ (date) should be paid to the New Landlord at:

The signatory below affirms the information provided in this Notice is true and acknowledges the New
Landlord has assumed the obligations of Landlord under the Lease.

By: _____
LANDLORD

By: _____
NEW LANDLORD

Enclosures

EXHIBIT C

COMMISSION SHARING BETWEEN THE TENANT
AND THE REAL ESTATE SUPPORT SERVICES VENDOR

Pursuant to the contract for Real Estate Support Services between _____ and the State dated _____, Landlord and Tenant acknowledge that in consideration of _____ acting as a Tenant Agent on behalf of the State of Colorado in this transaction, it will receive a leasing commission of \$____,____.____ of which 30% (\$____,____.____) will be credited to Tenant as shown in Article 1(B) of the Lease and 70% of the leasing commission (\$____,____.____) shall be remitted to _____ upon the full execution of this Lease.