

**TOWN HOME  
PURCHASE AND SALE AGREEMENT  
FOR  
ALCOVE**

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THIS TOWN HOME PURCHASE AND SALE AGREEMENT FOR ALCOVE (this “**Agreement**”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the “**Effective Date**”) between One Keystone LLC, a Delaware limited liability company (“**Seller**”) and \_\_\_\_\_ (“**Purchaser**”).

**SECTION 1. PURCHASE AND SALE.**

**1.1 Agreement.** Subject to and in accordance with the terms and conditions of this Agreement, Seller agrees to sell and Purchaser agrees to purchase certain real property (the “**Lot**”), generally depicted as Unit \_\_\_\_ on the site plan attached as Exhibit A, with a street address of \_\_\_\_ Alcove Court, Keystone, Colorado 80435, together with the Home (as defined in Section 4) to be constructed on the Lot. The legal description for the Lot will be established prior to Closing, and will be substantially similar to the Lot as depicted on Exhibit A. The Lot and the Home are collectively referred to as the “**Property**.” The Property is located in Summit County, Colorado (the “**County**”).

**1.2 Inclusions.** The standard features to be included with the Property are set forth on the List of Standard Features for Alcove on file with Seller. Purchaser acknowledges that Purchaser has reviewed the List of Standard Features for Alcove. The Property will be serviced with the following utilities: water, gas and electric, which may be separately metered to the Property and/or, if not separately metered to the Property, assessed as Association Assessments (as defined in Section 12) pursuant to the Declaration.

**1.3 Interior Color Scheme:** Purchaser selects the following interior color scheme for the Home:

<input type="checkbox"/> Mountain Traditional	Appliances:	<input type="checkbox"/> Matte Black	<input type="checkbox"/> Stainless Steel
<input type="checkbox"/> Mountain Modern	Appliances:	<input type="checkbox"/> Matte Black	<input type="checkbox"/> Stainless Steel
	Cabinets/Doors:	<input type="checkbox"/> Black	<input type="checkbox"/> White

\_\_\_\_\_  
Purchaser Initials

\_\_\_\_\_  
Seller Initials

**SECTION 2. PURCHASE PRICE AND METHOD OF PAYMENT.**

**2.1 Purchase Price.** The purchase price for the Property (the “**Purchase Price**”), is payable as follows:

<b>TOTAL PURCHASE PRICE</b>	\$ _____
(a) Initial Earnest Money due within 2 business days following the Effective Date	\$25,000.00
(b) Second Earnest Money due within 1 business day following the expiration of the Due Diligence Period (as defined in <u>Section 2.7</u> below) (together with the Initial Earnest Money, 10% of Purchase Price)	\$ _____
(c) Third Earnest Money due within 4 business days following Seller’s delivery of notice of commencement of construction of the Project (10% of Purchase Price)	\$ _____
(d) Balance Due on or before Closing (subject to adjustment per <u>Sections 2.4</u> and <u>6.3</u> )	\$ _____

\_\_\_\_\_  
Purchaser Initials

\_\_\_\_\_  
Seller Initials

**2.2 Earnest Money.** Purchaser will deposit with Seller, by personal check or wire transfer pursuant to separate instructions previously provided by Seller to Purchaser, (a) within 2 business days following the Effective Date, an earnest money deposit in the amount established in Section 2.1(a) (the “**Initial Earnest Money**”), (b) within 1 business days following the expiration of the Due Diligence Period, an earnest money deposit in the amount established in Section 2.1(b) (the “**Second Earnest Money**”), and (c) within 4 business days following Seller’s delivery of written notice to Purchaser that construction of the Project has commenced (the “**Construction Commencement Notice**”), an earnest money deposit in the amount established in Section 2.1(c) (the “**Third Earnest Money**”), which amounts will be held by the Title Company pursuant to the Escrow Agreement (as those terms are defined in Section 2.3) (collectively, and together with the Initial Earnest Money and the Second Earnest Money, the “**Earnest Money**”). The Earnest Money is paid by Purchaser to Seller in consideration for Seller taking the Property off the market and for proceeding with development of the Project (as defined in Section 3) as provided for herein. Subject to Purchaser’s right to a return of the Earnest Money (or an amount equal to the Earnest Money) as expressly provided for elsewhere in this Agreement, including Section 2.7 below, upon execution of this Agreement, Seller will have earned the Earnest Money and such Earnest Money shall be non-refundable. Purchaser’s failure to deposit any portion of the Earnest Money in accordance with the provisions hereof shall be a default by Purchaser.

**2.3 Holding of Earnest Money.** Seller will place the Earnest Money in a non-interest bearing escrow account in the name of Seller pursuant to an escrow agreement (the “**Escrow Agreement**”) with Land Title Guarantee Company (the “**Title Company**”). Purchaser acknowledges and agrees that it is not a party to the Escrow Agreement and is not a third-party beneficiary of any of the obligations of Seller or the Title Company under the Escrow Agreement. At Seller’s option, the Earnest Money may be released to Seller pursuant to the Escrow Agreement; provided, however, that until Seller’s delivery to Purchaser of the Construction Commencement Notice described in Section Error! Reference source not found., Seller shall only be permitted to request the release of up to one-half (1/2) of that portion of the Earnest Money consisting of the Initial Deposit and Second Deposit. After the release of any Earnest Money to Seller, such Earnest Money may be commingled with Seller’s other funds, and Seller may use the Earnest Money in its sole and absolute discretion for any costs or expenses relating to the construction, development, sale or marketing of the Property or the Project, or for any other purpose whatsoever, and Purchaser consents to the release of the Earnest Money to Seller. **EXCEPT AS PROVIDED FOR ABOVE AND SUBJECT TO PURCHASER’S RIGHT TO RETURN OF THE EARNEST MONEY (OR AN AMOUNT EQUAL TO THE EARNEST MONEY) AS PROVIDED FOR ELSEWHERE IN THIS AGREEMENT, PURCHASER EXPRESSLY ACKNOWLEDGES AND AGREES THAT, OTHER THAN AS SET FORTH IN THIS SECTION 2.3, THE EARNEST MONEY WILL NOT BE HELD IN ESCROW, TRUST OR ANY OTHER SIMILAR ARRANGEMENT, THAT SELLER MAY USE THE EARNEST MONEY FOR ANY PURPOSE, AND THAT FOLLOWING THE RELEASE OF THE EARNEST MONEY TO SELLER, THE EARNEST MONEY SHALL NOT ACCRUE INTEREST.**

**2.4 Funds at Closing.** At Closing, an amount equal to the Earnest Money will be credited toward payment of the Purchase Price, and Purchaser will pay the balance of the Purchase Price by wire transfer pursuant to separate instructions to be provided by Seller. The amount due from Purchaser at Closing will be adjusted for prorated expenses and closing costs as provided in this Agreement.

**2.5 Pre-Approval.** Seller may at any time request Purchaser to provide Seller with either a pre-approval letter from Purchaser’s lender stating that Purchaser is reasonably qualified and is likely to obtain a loan in an amount equal to the Purchase Price less the Earnest Money (a “**Pre-Approval Letter**”) or a letter from Purchaser’s bank or investment company stating that Purchaser has sufficient liquid assets to purchase the Property without a loan (a “**Sufficient Assets Confirmation**”). Seller may terminate this Agreement if Purchaser is unable to deliver a Pre-Approval Letter or a Sufficient Assets Confirmation to Seller within 7 days of Seller’s written request therefor, whereupon the Earnest Money will be returned to Purchaser and the parties will be released from all obligations under this Agreement, except those that expressly survive termination. Purchaser understands and agrees that this Agreement is not contingent upon Purchaser obtaining financing for Closing and that Purchaser shall be responsible for obtaining its own financing for the purchase of the Property. Seller may, but shall not be obligated to, provide assistance by notifying Purchaser of potential financing sources. Purchaser shall be solely responsible for the accuracy and completeness of all materials submitted to any lender. Purchaser’s obligation to purchase the Property is not conditioned upon an appraisal of the Property.

**2.6 Presale Contingency.** If for any reason within one hundred eighty (180) days of Seller executing the first contract for a unit in the Project (the “**Presale Period**”), Seller has not entered into purchase contracts for the sale of the greater of (i) sixty percent (60%) of the lots in the Project or (ii) the number of lots within the Project necessary to satisfy the presale requirements imposed by Seller’s construction lender, Seller shall have the option to terminate this Contract by giving Purchaser written notice of such termination no later than the date 30 days after the expiration of the Presale Period, in which event all Earnest Money previously deposited by Purchaser, together with any accrued interest, and any Upgrade Payment (defined below) shall be returned to Buyer, and Buyer and Seller shall be released of all duties and obligations hereunder.

**2.7 Due Diligence Period.** Purchaser has the right to terminate this Agreement with or without cause and at Purchaser’s sole option, by delivering written notice thereof to Seller on or prior to the date that is ten (10) days after the Effective Date (the “**Due Diligence Period**”), whereupon the Initial Earnest Money deposited by Purchaser will be returned to Purchaser and the parties will be released from all obligations under this Agreement, except those that expressly survive.

### **SECTION 3. THE COMMUNITY AND THE ASSOCIATION.**

**3.1 The Project.** The Property will be a part of a residential community known as “Alcove” (the “**Project**”). The Project will be established under a Declaration of Covenants, Conditions and Restrictions for Alcove, a Town Home Planned Community (the “**Declaration**”) which will be or has been recorded in the real property records of Summit County, Colorado (the “**Records**”).

**3.2 Association Documents.** Pursuant to the Declaration, a property owners’ association known as the Alcove Homeowners Association, Inc. (the “**Association**”) will be formed pursuant to Articles of Incorporation (the “**Articles**”) to be filed with the Colorado Secretary of State and will be governed by bylaws (the “**Bylaws**”) adopted by the Association’s initial board of directors. The Declaration, Articles and Bylaws are collectively referred to as the “**Association Documents**.” By signing this Agreement, Purchaser acknowledges and agrees that Seller has provided Purchaser with the current drafts of the Association Documents. Seller specifically reserves the right to revise the Association Documents prior to Closing (as defined in Section 6) (a) as needed to establish different or additional easements, reservations or restrictions which, in Seller’s sole judgment, are necessary for, consistent with or in furtherance of the development of the Project; (b) in order to meet the requirements of applicable laws, governmental regulations, governmental bodies or agencies or any lending institutions; or (c) to make any additions, deletions, or modifications which, in Seller’s sole judgment, are necessary for, consistent with or in furtherance of the development of the Project. If Seller makes any such additions, deletions or modifications, Purchaser will not have any right to terminate this Agreement or claim that Seller is in breach of any obligation under this Agreement. Subject to Section 5, Seller’s revisions will not significantly change the location, size or configuration of the Home as depicted on the Plans. At Closing, Seller will furnish Purchaser with copies of the final Association Documents, as recorded, filed or adopted.

### **SECTION 4. CONSTRUCTION OF THE PROJECT AND HOME.**

**4.1 Floor Plans.** The Purchase Price includes delivery by Seller of an attached single-family townhome residence and related improvements constructed on the Lot (the “**Home**”). Subject to satisfaction of the presale contingency set forth in Section 2.6, Seller will cause the Home to be constructed in substantial compliance with the draft floor plans and drawings for the Home attached as Exhibit B (as may be amended pursuant to Section 4.1.2, the “**Floor Plans**”). Notwithstanding the foregoing, Purchaser acknowledges the following provisions:

**4.1.1 Review of the Floor Plans.** By execution of this Agreement, Purchaser acknowledges and agrees that it has had the opportunity to review the Floor Plans and that it approves the Floor Plans. Purchaser agrees to accept the Property subject to all terms and depictions of the Home on the Floor Plans and subject to the provisions of this Section 4. With respect to the location, size and configuration of the Home, the final building plans will be substantially similar to the Floor Plans. Seller makes no representation and has no obligation to Purchaser of any kind or nature concerning depictions on the Floor Plans or any other conceptual or final plans concerning any other lots and/or homes within the Project. Once completed, a complete copy of the conceptual drawings and plans for the Project, as may be amended from time to time, will be available for Purchaser’s review and inspection by appointment upon at least 2 business days’ notice to Seller.

**4.1.2 Seller's Modifications.** Seller may substitute materials and make other modifications to the Floor Plans which Seller deems necessary, in its sole judgment, for the purposes of: (a) resolving unworkable design or construction situations; (b) making any modifications to the Floor Plans which in the sole judgment of Seller are necessary or consistent with the development of the Project; (c) accommodating unknown or unforeseen site conditions, (d) making substitutions for materials so long as the replacement materials are equivalent or superior to the materials originally specified in the Floor Plans; (e) making substitutions for materials in the event of a discontinuation of such materials by their manufacturer or supplier, or in the event such materials are unavailable within Seller's construction timeline or Seller's ability to obtain such materials becomes commercially impracticable; and (f) meeting the requirements of applicable laws, governmental regulations, governmental bodies or agencies, lending institutions or insurers. Such substitutions or modifications will not significantly diminish the floor area or alter the configuration of the Home, subject to Section 4.1.3. Purchaser acknowledges that certain features, items and equipment (including, without limitation, paint, tile, stone and/or other mechanical equipment) are subject to change or variation naturally or by the manufacturer and may vary from those depicted on the Floor Plans. The term Floor Plans as used in this Agreement will include any adjustments or modifications made pursuant to this Section 4.1.2.

**4.1.3 Floor Area of the Home.** Statements of approximate dimensions, floor areas, ceiling heights or volumes of the Home may be made in the Floor Plans or in other materials reviewed by Purchaser in connection with the purchase of the Property. Purchaser agrees to accept the Home, as generally depicted in the Floor Plans (subject to this Section 4), and is not relying on the precise dimensions, floor areas, ceiling heights or volumes depicted therein, if any. Provided the Home is constructed substantially in accordance with the Floor Plans, Purchaser may not rescind this Agreement, nor may Purchaser make any claim for any breach of this Agreement on account of alleged discrepancies in such measurements or calculations.

**4.1.4 Grading and Drainage.** Seller may construct the Home as will best conform, in Seller's opinion, to the grade of the Lot or in accordance with the recommendation of Seller's engineers. Each lot within the Project is unique in its size, shape and drainage characteristics. Purchaser understands and agrees that the size of the Lot; the exact location of sidewalks and driveways (if any); and the drainage patterns of the Lot may differ from the plans, drawings or renderings Purchaser has examined, and Seller reserves the right to determine the location and configuration of the Home upon the Lot subject to subdivision requirements. The Lot is finished graded to comply with the general drainage requirements of the entire Project and Purchaser acknowledges that other property in the Project, including other lots, may drain onto the Lot.

**4.2 Completion of Construction.** Subject to satisfaction of the presale contingency set forth in Section 2.6, Seller will diligently pursue Substantial Completion of the Home. "**Substantial Completion**" of the Home is defined to mean and the Home will be deemed "Substantially Completed" when Seller obtains a certificate of occupancy or any other document evidencing that the Home may be legally occupied, whether subject to conditions or otherwise. Subject to the terms of Section 17, and any Force Majeure Delays (as such term is defined in Section 6.1.2), the Home will be Substantially Completed no later than thirty-six (36) months after the Effective Date ("**Outside Completion Date**"), unless a later date is mutually agreed upon by the parties. If the Home is not Substantially Completed by the Outside Completion Date, then Purchaser may terminate this Agreement by written notice to the other party, whereupon the Earnest Money will be returned to Purchaser and the parties will be released from all obligations under this Agreement, except those that expressly survive.

**4.3 Control During Construction.**

**4.3.1 Control.** Seller's contractor will have the sole authority, direction and supervision over all construction means, methods, techniques and procedures and all personnel involved in the construction of the Project. To facilitate orderly completion of the Project, neither Purchaser nor Purchaser's agents or employees will issue separate instructions to such personnel or otherwise interfere with work in progress. Neither Purchaser nor Purchaser's agents, employees or contractors will conduct or perform any work anywhere within the Project at any time. Due to hazardous conditions and insurance requirements, Purchaser and Purchaser's agents, contractors, designers and employees will be prohibited from entering onto the construction site for the Project or any other portion of the Project without the prior written consent of Seller, which consent will be granted or withheld in Seller's sole judgment. Any requests by Purchaser to enter the construction site for the Project or any other portion of the Project will be made in writing and at least forty-eight (48) hours in advance. Notwithstanding the foregoing, Purchaser

acknowledges that while Seller may, under certain circumstances, allow limited access to the construction site for the Project or any other portion of the Project, Seller is under no obligation to permit such access at any time.

**4.3.2 Indemnity.** Purchaser will indemnify and hold harmless Seller and Seller's affiliates, and their employees, agents and contractors from and against any demands, claims, causes of action, liens (including, without limitation, mechanics' and materialmen's liens), fines, penalties, damages, liabilities, judgments, and expenses (including, without limitation, attorneys' fees) incurred in connection with or arising from any injury or damage to any person who, or property which, is present on or about the construction site for the Project or any other portion of the Project and that is caused by any act or omission of Purchaser or Purchaser's agents, or employees conducted on or about the construction site for the Project or any other portion of the Project.

#### **4.4 Finish Selections.**

**4.4.1 Standard Features.** The Purchase Price includes basic finishes in the Home. The available package of basic interior finishes in the Home, which includes items such as paint, cabinets, hardware and flooring, set forth in the List of Standard Features for Alcove on file with Seller. Purchaser acknowledges that the such interior finishes remain subject to change due to the unavailability of materials for any reason, including but not limited to manufacturer discontinuation or out-of-stock products; provided, Seller will use reasonable efforts to provide similar options so long as such options are of comparable cost. Purchaser acknowledges that Purchaser has reviewed the List of Standard Features for Alcove.

**4.4.2 Upgrade Options.** If and to the extent Purchaser has selected any optional upgrades to the Home offered by Seller ("Upgrade Options"), as evidenced by an addendum (an "Upgrade Option Addendum") attached to this Agreement, then Purchaser must deliver to Seller, in cash or other immediately available funds, an amount equal to the full cost of the Upgrade Options selected by Purchaser (the "Upgrade Payment"). Once paid, the Upgrade Payment shall be immediately nonrefundable except in the event of a Seller default hereunder. If an Upgrade Option Addendum is not attached to this Agreement, Purchaser will be deemed to have waived its right to select any Upgrade Options.

**4.5 Insulation.** Pursuant to the Federal Trade Commission regulations regarding labeling and advertising of home insulation (codified at 16 CFR § 460.16), the types and minimum thicknesses and R-Values of insulation presently anticipated to be installed in the Home are as set forth below. Where multiple types of insulation are listed for a single location, Seller anticipates that one or both types of insulation will be used in the Home:

<u>Location</u>	<u>Type of Insulation</u>	<u>R-Value</u>
Exterior walls	Batt Insulation	R-20
Demising walls	Mineral Wool Insulation	n/a
Floors	Batt Insulation	R-30
Crawl space walls	Batt Insulation Rigid Insulation	R-19 R-15
Ceiling/roof	Batt Insulation Blown-In Insulation	R-49 R-49

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

## SECTION 5. TITLE.

**5.1 Permitted Exceptions.** The “**Permitted Exceptions**” means: (a) real property taxes and assessments for the year of Closing and subsequent years; (b) all building, zoning and other applicable laws and regulations of the County, and any other governmental entity with jurisdiction over the Project; (c) all federal, state or local laws, ordinances, rules, regulations, covenants and rights-of-way whether recorded in the Records or not; (d) all covenants, conditions, restrictions, reservations, exceptions, easements, rights-of-way, and other matters set forth on Schedule B-2 of the Preliminary Title Commitment (as defined in Section 5.2), other than that certain Repurchase Option Memorandum, recorded in the County records on November 7, 2022 at Reception No. 1300606 (as amended, modified or supplemented at any time and from time to time, the “**Mandatory Removal Items**”); (e) taxes, assessments, fees or charges, if any, resulting from the inclusion of the Project in one or more special districts; (f) all covenants, conditions, restrictions, easements, assessments and all other matters affecting title to the Property contained in the Association Documents; (g) any defects in or objections to title to the Project caused by Purchaser and anyone claiming by, through or under Purchaser; (h) the standard printed exceptions appearing in title commitments issued by the Title Company; (i) any condition that is open and obvious on the ground or which a survey would disclose; (j) any additional easements, covenants, reservations, lot line adjustments, rights-of-way or restrictions which in the sole judgment of Seller are necessary for or consistent with the development of the Project or any other projects or properties adjacent to or in the vicinity of the Project; and (k) any other reservations, exceptions, easements, rights-of-way or other matters which are waived or deemed waived by Purchaser pursuant to Section 5.3.

**5.2 Title Commitment.** During the Due Diligence Period, Seller will provide Purchaser with a preliminary commitment for title insurance (the “**Preliminary Title Commitment**”) issued by the Title Company with respect to the Property, as well as copies of all documents referred to on Schedule B-2 of the Title Commitment. At least 10 days prior to the Closing, Seller shall deliver an update of the Preliminary Title Commitment to Purchaser (the “**Title Commitment**”), together with copies of all documents shown as exceptions to title that were not shown on the Preliminary Title Commitment, and that will commit to insure title to the Property in Purchaser for the amount of the Purchase Price upon payment of the policy premium by Seller and the recording of the Deed (as defined in Section 6.2.1) in the Records. At Closing, Seller will pay the title insurance premium for basic coverage, and Purchaser will pay the premiums for any extended or endorsement coverages that may be obtained (except that Seller will pay any endorsement premiums for any applicable title cure under Section 5.3) and for any lender’s policy endorsements obtained. As soon as possible after Closing, Seller will cause to be delivered to Purchaser an owner’s title insurance policy insuring title to the Property in Purchaser, in accordance with the Title Commitment and provisions of this Agreement.

**5.3 Defects of Title.** If Purchaser asserts the existence of any encumbrance, encroachment or defect in title shown on the Title Commitment that was not shown on the Preliminary Title Commitment, which is not a Permitted Exception and renders title to the Property unmarketable, and which Purchaser does not waive (any such exceptions, together with the Mandatory Removal Items, to be deemed a “**Defect of Title**”), Purchaser may give written notice of a Defect of Title to Seller within 5 days after the Title Commitment is delivered to Purchaser, but not later than the Closing Date (as defined in Section 6). After receiving such notice, Seller may, but will not be obligated to, remove or cure such Defect of Title. Seller may, at its option, (a) provide Purchaser with title insurance protection against any Defect of Title, in which case the Defect of Title will become a Permitted Exception but such title insurance protection will be deemed to remove or cure such Defect of Title; (b) use the proceeds from Closing to remove or cure at Closing any Defect of Title which may be removed or cured by payment of an ascertainable sum of money; or (c) otherwise secure the removal of such Defect of Title. If Seller attempts, or is required under this Section 5.3 to attempt, to remove or cure such Defect of Title, then Seller may, at its option, extend the Closing Date, if necessary, for a reasonable period to give Seller additional time to remove or cure such Defect of Title. If Seller is unable in the case of a Seller’s Defect or is unwilling in the case of any other Defect of Title to remove or cure such Defect of Title, Purchaser, as its sole remedy, may elect to (i) waive such Defect of Title, in which case it will become a Permitted Exception, or (ii) terminate this Agreement. Purchaser will make this election by notice to Seller within 3 business days after any notice from Seller that Seller is unable or (if applicable) unwilling to remove or cure the Defect of Title, if Seller at its election gives such a notice, and otherwise and in any case no later than the Closing Date. If Purchaser fails to give Purchaser’s election notice, Purchaser will be deemed to have made the election to waive such Defect of Title. If Purchaser terminates this Agreement pursuant to this Section 5.3, then Seller will return an amount equal to the Earnest Money to Purchaser, and Purchaser and Seller will be released from all further obligations under this Agreement, except those that expressly survive termination.

**5.4**     Equitable Title. No beneficial interest in or equitable title to the Property will pass to Purchaser until Closing.

**SECTION 6.     CLOSING.** “Closing” will occur upon Seller’s delivery to Purchaser of the Deed in accordance with the terms and conditions of this Agreement, and the date upon which Closing occurs is referred to herein as the “Closing Date.” Purchaser’s failure to perform all of Purchaser’s obligations at Closing will constitute a default under this Agreement.

**6.1**     Closing Date. The Closing Date will be established as follows:

**6.1.1     Estimated Closing; Substantial Completion of Home.** Subject to Force Majeure Delays, Closing will occur on the date that is no less than 5 days and no more than 20 days after Seller delivers to Purchaser notice that Substantial Completion of the Home has occurred as provided for in Section 4.2, which date will be specified by Seller in such notice. Within 2 days after Seller’s delivery of such notice, Purchaser shall provide Seller and Escrow Agent a written notification as to how Purchaser elects to take title to the Property.

**6.1.2     Delays.**

**6.1.2.1     Force Majeure.** In the event of delays from causes beyond the reasonable control of Seller, and its agents, employees, contractors, subcontractors and consultants, including but not limited to acts of God or public enemies, expropriation or confiscation of facilities, compliance with any order or request of any governmental authority or person purporting to act therefor, acts of declared or undeclared war or weapon of war whether in the time of peace or war, public disorder, rebellion, sabotage, pandemic, public health orders, revolution, earthquake, flood, riot, strike, labor or employment difficulty, delay in transportation, inability of Seller to obtain necessary materials or equipment or permits due to existing or future laws, rules or regulations of governmental authorities, or any other causes, whether direct or indirect, and whether or not of the same class or kind as those specifically above named, not within the reasonable control of Seller, or its agents, employees, contractors, subcontractors and consultants, and which by the exercise of reasonable diligence Seller is unable to prevent (“**Force Majeure Delays**”), then the time for Seller’s performance under this Agreement will be extended for the period of such Force Majeure Delays, or any longer period as may be reasonably necessary or appropriate to accommodate the effect of the Force Majeure Delays.

**6.1.2.2     Late Closing Fee.** If Purchaser fails to close on the Closing Date established pursuant to Section 6.1.1 for any reason other than Seller’s default, then Purchaser will pay to Seller a late closing fee in an amount equal to \$1,000 (the “**Late Closing Fee**”) for each day past the otherwise established Closing Date until such time as Closing occurs. The Late Closing Fee will be due and payable in addition to any other sums otherwise due under this Agreement, will be collected at Closing, and will accrue both during and after Purchaser’s 20 day cure period provided for in Section 18.1. In other words, if Purchaser fails to close on the appointed Closing Date, and Seller provides Purchaser with a Seller’s Default Notice as required under Section 18.1, the Late Closing Fee will begin to accrue starting the first day after the date on which the Closing Date was scheduled and continuing until such time as Closing actually occurs, despite the fact that Purchaser will have 20 days after delivery of Seller’s Default Notice to cure such default.

**6.2     Closing Procedures.** Closing will be held in the offices of the Title Company, 256 Dillon Ridge Road, Unit B-14, P.O. Box 4288, Dillon, CO 80435, at a time and place specified by Seller. At Closing, the parties will take the following actions:

**6.2.1     Delivery of Deed.** Seller will deliver or cause to be delivered to Purchaser an executed and acknowledged special warranty deed (the “**Deed**”), conveying title to the Property subject to Statutory Exceptions (as defined in the Colorado Revised Statutes).

**6.2.2     Payment.** Purchaser will pay the Balance Due (as established in Section 2.1).

**6.2.3     Other Actions.** Purchaser and Seller will execute and deliver such other documents and take such other actions as may be required pursuant to this Agreement or as otherwise necessary to accomplish Closing



and carry out their respective obligations under this Agreement and the Declaration, including but not limited to Purchaser's delivery of certificates of insurance in accordance with the Declaration.

**6.2.4 Reporting of Transaction.** Purchaser will comply with all reporting requirements applicable to the transaction which is the subject of this Agreement which are set forth in any law, statute, ordinance, rule, regulations, order or determination of any governmental authority. Upon request of Seller, Purchaser will furnish Seller evidence of such compliance and Purchaser agrees to defend, indemnify and hold Seller harmless against any liability arising because of any failure by Purchaser to meet such requirements.

**6.3 Adjustments; Closing Costs.** At Closing, the following adjustments and payments will be made:

**6.3.1 Real Estate Taxes and Assessments.** Real property taxes and assessments (including all periodic assessments of the Keystone Neighbourhood Company pursuant to the Declaration of Covenants, Conditions and Restrictions for The Neighbourhoods at Keystone, recorded in the County Records on December 1, 1995 at Reception No. 504399 (the "Neighbourhoods Declaration") for the year of Closing will be prorated to the Closing Date based upon the most recent mill levy and assessment or upon Seller's estimate of taxes and assessments due, as made in Seller's sole business judgment. If real property taxes or assessments have not been assessed specifically to the Property, Seller may reasonably estimate the amount of real property taxes and assessments attributable to the Property and prorate such estimate to the Closing Date. The proration of real property taxes and assessments pursuant to this Section 6.3.1 will be a final settlement.

**6.3.2 Association Assessments.** Association Assessments for the fiscal year in which Closing occurs will be prorated to the Closing Date and Purchaser will pay such prorated amount to the Association. Furthermore, Purchaser agrees to pay to the Association at Closing a working capital fee based on and equal to two months of the amount of the "Common Assessment" established by the Association pursuant to the Declaration as of Closing, together with a prepayment of Association Assessments equal to one month of the amount of "Common Assessment" established by the Association pursuant to the Declaration as of Closing. By execution of this Agreement, Purchaser acknowledges and agrees that such working capital contribution is not a prepayment of Association Assessments and is not refundable to Purchaser upon the subsequent sale of the Property.

**6.3.3 Closing Costs.** At Closing: (a) Seller will pay those costs and expenses normally paid by a seller of real property in the State of Colorado, costs or fees for obtaining the Title Commitment, and the premium for the basic owner's policy of title insurance in conformance with the Title Commitment (subject to the provisions of Section 5.2); and (b) Purchaser will pay those costs and expenses normally paid by a buyer of real property in the State of Colorado, including, but not limited to, recording fees, documentary fees, the cost of any title insurance premiums allocated to Purchaser under Section 5.2, and any applicable transfer assessments, transfer fees or transfer taxes, including, without limitation, the two percent (2%) transfer assessment of the Keystone Neighbourhood Company pursuant to the Neighbourhoods Declaration. Purchaser and Seller will each pay one-half of Closing fees charged by the Title Company. Each party will bear its own attorneys' fees incurred in connection with Closing.

**SECTION 7. SELLER'S WARRANTY.** At Closing, Purchaser and Seller will execute and Seller will deliver to Purchaser a limited warranty agreement in a form substantially similar to the attached Exhibit C (the "**Limited Warranty Agreement**"). By executing this Agreement, Purchaser acknowledges that it has reviewed and understands the sample form of the Limited Warranty Agreement. **EXCEPT AS OTHERWISE PROVIDED IN THE LIMITED WARRANTY AGREEMENT AND EXCEPT FOR WORK ITEMS ON THE PROPERTY PUNCH LIST, PURCHASER IS PURCHASING THE PROPERTY IN ITS "AS IS" "WHERE IS" CONDITION, "WITH ALL FAULTS," EXISTING AT THE TIME OF CLOSING, SUBJECT TO SELLER'S OBLIGATION TO COMPLETE THE COMMON ELEMENTS (AS DEFINED IN SECTION 9) AS PROVIDED FOR IN SECTION 9. PURCHASER IS PURCHASING THE PROPERTY IN ITS "AS IS" CONDITION EXISTING AT THE TIME OF CLOSING. PURCHASER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT ALL OTHER REPRESENTATIONS AND WARRANTIES, OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THOSE OF WORKMANLIKE CONSTRUCTION, HABITABILITY, DESIGN, CONDITION, QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR OTHERWISE WITH RESPECT TO THE PROPERTY OR THE COMMON ELEMENTS, OR ANY IMPROVEMENTS, FIXTURES, EQUIPMENT, APPLIANCES OR OTHER PERSONAL PROPERTY IN THE PROPERTY OR THE**

**COMMON ELEMENTS, ARE EXPRESSLY DISCLAIMED BY SELLER AND WAIVED BY PURCHASER TO THE FULLEST EXTENT PERMITTED BY LAW.**

**EXCEPT FOR THE WARRANTIES PROVIDED IN THE LIMITED WARRANTY AGREEMENT, PURCHASER ACCEPTS, AND ASSUMES THE RISK OF, ALL DAMAGE OR DEFECTS TO OR OF THE PROPERTY OR THE COMMON ELEMENTS, OR ANY IMPROVEMENTS, FIXTURES, EQUIPMENT, APPLIANCES OR OTHER PERSONAL PROPERTY IN THE PROPERTY OR THE COMMON ELEMENTS, EXISTING AS OF CLOSING OR ANY TIME THEREAFTER, REGARDLESS OF THE CAUSE. EXCEPT FOR THE WARRANTIES PROVIDED IN THE LIMITED WARRANTY AGREEMENT, PURCHASER ALSO, TO THE FULLEST EXTENT PERMITTED BY LAW, (A) WAIVES ALL CLAIMS RELATING TO DAMAGE OR DEFECTS TO OR OF THE PROPERTY OR THE COMMON ELEMENTS, OR ANY IMPROVEMENTS, FIXTURES, EQUIPMENT, APPLIANCES OR OTHER PERSONAL PROPERTY IN THE PROPERTY OR THE COMMON ELEMENTS, WHETHER ARISING UNDER COMMON LAW OR STATUTE, WHETHER BASED ON BREACHES OF WARRANTY, TORT OR ANY OTHER THEORY AT LAW OR IN EQUITY; AND (B) WAIVES ALL DAMAGES, WHETHER ACTUAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE, OR OTHER REMEDIES OR RELIEF RELATED TO ANY SUCH DAMAGES OR DEFECTS.** Purchaser's acceptance and assumption of this risk and waiver of claims, damages and other relief are partially in consideration of the amount of the Purchase Price, which is lower than it would be if Seller was to be held responsible for any such risks, damages or defects by virtue of any express or implied representations or warranties or if Purchaser did not waive such claims, damage and other relief. Purchaser's waivers pursuant to this Section 7 will survive Closing.

## **SECTION 8. WALK-THROUGH.**

**8.1** Walk-Through and Punch List Procedure. Incomplete items of construction in the Home or on the Lot that do not significantly affect occupancy of the Home (including but not limited to, "punch list" items), will not delay Closing and the Home will still be considered Substantially Complete regardless of such items. Purchaser may schedule with Seller's representatives a walk-through inspection of the Property to take place during the 5-day period immediately preceding the Closing or such earlier date as may be mutually acceptable to Purchaser and Seller. Within 15 days after Closing, Purchaser will prepare a punch list of defective or incomplete items to be repaired or completed within the Property after Closing (the "**Punch List**"), which will be submitted for processing to the Buildertrend application of Seller's contractor. Seller or its contractor shall have the right to review the Punch List for accuracy, and may accept or reject (with notification of such rejection delivered to Purchaser) any items on the Punch List at its sole discretion. No subsequent additions to the Punch List will be permitted. Seller either will complete all items listed on the Punch List and accepted by Seller before Closing or will proceed diligently to complete such items within the 120-day period following Closing to the extent reasonably possible and subject to Force Majeure Delays. If Purchaser fails to schedule a walk-through inspection or fails to participate in a scheduled walk-through inspection of the Property, Purchaser will be deemed to have waived Purchaser's right to a walk-through inspection of the Property and the preparation of the Punch List, and Purchaser will be deemed to have accepted the Property in its condition as of Closing.

**8.2** Limitations on Attendance at Walk-Through Inspection. Purchaser may have no more than three people participate in the walk-through inspection. If Purchaser is an entity, Purchaser may designate one person to act as "Purchaser" for purposes of the walk-through inspection.

**SECTION 9. CONSTRUCTION OF COMMON ELEMENTS.** Subject to the provisions of Section 3, Seller will construct the improvements within the Project serving the Home to be maintained by the Association pursuant to the Declaration ("**Common Elements**") in substantial compliance with the conceptual drawings and plans for the Project, as the same may be amended from time to time. So long as the Home is Substantially Completed as provided in Section 4.2 incomplete items of construction within the Common Elements will not delay Closing. Purchaser specifically acknowledges and agrees, without limitation, that due to seasonal weather conditions and other factors, including ongoing Project construction and construction scheduling and staging, certain portions of the Common Elements, including, without limitation, surface components or improvements such as paving, hardscaping and landscaping, may not be completed by the time that Substantial Completion of the Home as set forth in Section 4.2 and Closing occur. Seller will complete the Common Elements as soon as reasonably possible when weather

conditions and other factors permit, but in no event later than 30 days after a final certificate of occupancy is issued for the last home within the Project, subject to Force Majeure Delays.

**SECTION 10. RIGHT OF ACCESS TO REPAIR.** After Closing, Purchaser agrees to permit ingress and egress to Seller, its agents, representatives and assigns, upon not less than twenty-four (24) hours' notice, over, across and through the Property when necessary for the limited purpose of completing the Punch List and other minor construction items and performing warranty maintenance and repair, and also over, across and through the Project to complete the Common Elements, and to accommodate Seller, its agents, representatives and assigns in connection with the same. Seller agrees that in undertaking such work, it will use reasonable efforts to minimize any inconvenience to Purchaser. The terms of this Section 10 will survive Closing and will apply to Purchaser's heirs, successors and assigns.

**SECTION 11. DELIVERY OF POSSESSION.** Purchaser will receive possession of the Property at Closing. Purchaser acknowledges that access to the Property may be subject to temporary inconveniences due to ongoing construction and other activities of Seller within and adjacent to the Project.

**SECTION 12. ASSOCIATION MEMBERSHIP.** Upon becoming owner of the Property, Purchaser will automatically become a member of the Association and will be responsible for the payment of all assessments levied by the Association in amounts and in accordance with the terms of the Association Documents, as may be modified pursuant to Section 3.2 (the "**Association Assessments**"). By execution of this Agreement, Purchaser acknowledges and agrees that Seller has provided Purchaser with an estimated budget for the Association which sets forth the estimated amount of Association Assessments for which Purchaser, as owner of the Property, will initially be responsible. Based on changes made to the Association Documents by Seller pursuant to Section 3.2, the estimated budget may change prior to Closing. In such event, Seller will provide Purchaser with a revised estimated budget, but in no event will Purchaser be entitled to terminate this Agreement based on any such revised estimated budget. The actual budget, and resulting Association Assessments, may vary significantly from the estimated budget provided in connection with the execution of this Agreement or in connection with any revisions to the Association Documents pursuant to Section 3.2. The affairs of the Association will be managed by the board of directors of the Association pursuant to the Association Documents.

**SECTION 13. CCIOA DISCLOSURE.** In accordance with Section 38-35.7-102, C.R.S., Purchaser specifically acknowledges the following:

**THE PROPERTY WILL BE LOCATED WITHIN A COMMON INTEREST COMMUNITY AND WILL BE SUBJECT TO THE DECLARATION. PURCHASER, AS THE OWNER OF THE PROPERTY, WILL BE REQUIRED TO BE A MEMBER OF THE ASSOCIATION, AND WILL BE SUBJECT TO THE BYLAWS, THE RULES AND REGULATIONS OF THE ASSOCIATION ("RULES") AND THE POLICIES OF THE ASSOCIATION ("POLICIES"). THE DECLARATION, BYLAWS, RULES AND POLICIES WILL IMPOSE FINANCIAL OBLIGATIONS UPON PURCHASER, AS THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS TO THE ASSOCIATION. IF PURCHASER, AS THE OWNER OF THE PROPERTY, 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, RULES AND POLICIES MAY PROHIBIT PURCHASER, AS THE OWNER OF THE PROPERTY, 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 ANY PORTION OF THE PROJECT SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION, BYLAWS, RULES AND POLICIES.**

**SECTION 14. BROKERS.** Unless otherwise provided in an addendum to this Agreement, each party represents to the other that no real estate broker other than Michael Lytle or Susan Lytle with Slifer Smith & Frampton Real Estate ("**Seller's Broker**") has any claim for compensation or expenses as a result of this transaction, which arises by, through or under the representing party. Each party will indemnify the other against any claims for commissions or

other compensation by any other broker or finder based on any dealings between such broker or finder and the representing party. Seller agrees to compensate Seller's Broker for services rendered in this transaction based on the Purchase Price, if any, pursuant to separate agreement between Seller and Seller's Broker. The obligations of the parties under this Section 14 will survive Closing.

**SECTION 15. NOTICES.** Except as otherwise provided in this Section 15, all notices or deliveries required under this Agreement will be hand delivered or given by e-mail transmittal, certified United States mail or overnight courier directed to the e-mail address or address of Purchaser and Seller set forth under their signatures on this Agreement. All notices so given will be considered effective, if hand delivered, when delivered; if delivered by e-mail transmittal, upon confirmation of receipt; if delivered by overnight courier, 1 business day after timely deposit with the courier service, charges prepaid; or if mailed, 3 days after deposit, postage prepaid certified with the United States Postal Service. Either party may change the address to which future notices to such party will be sent by notice given in accordance with this Section 15. Seller's authorized agent may send notices at the direction of and in place of Seller. If Purchaser consists of more than one person or entity, Seller will be required to give notice to only one of those parties. Purchaser may designate the party to receive notice, and if no one party is designated, Seller will be deemed to have given adequate notice with notice given in accordance with this Section 15 to any one of the parties comprising Purchaser.

#### **SECTION 16. ASSIGNMENT.**

**16.1 By Purchaser.** This Agreement is personal to Purchaser, and Purchaser may not assign this Agreement without the prior written consent of Seller, which consent may be granted or withheld in Seller's sole and absolute discretion. Any purported assignment of this Agreement without Seller's written consent will be void and, at Seller's option, will place Purchaser in default of this Agreement. Seller's refusal to consent to an assignment of this Agreement will not entitle Purchaser to terminate this Agreement or give Purchaser any rights or claims for damages against Seller. Upon any assignment of this Agreement by Purchaser, Purchaser will remain responsible to Seller for all obligations hereunder and Purchaser and Purchaser's assignee will execute an assignment whereby Purchaser's assignee jointly assumes all such obligations. Notwithstanding the language above or anything else to the contrary in this Agreement, Purchaser may assign this Agreement, without Seller's consent, (a) to an entity which is 100% owned by Purchaser or by Purchaser and Purchaser's spouse, children and direct ancestors and descendants, whether by blood or adoption, or combination thereof, (b) to a trust or other entity for the benefit of Purchaser and/or any such individuals and (c) in connection with a Section 1031 like-kind exchange, provided that in no event shall any like-kind exchange delay Closing. Each party agrees to cooperate in the completion of a like-kind exchange by either party so long as it incurs no additional expense or liability in doing so. Purchaser agrees to notify Seller in writing promptly following such assignment and in no event later than ten (10) days prior to any scheduled date of Closing.

**16.2 By Seller.** Seller may assign its rights and delegate its duties under this Agreement to any affiliate of Seller without Purchaser's consent. If any assignment by Seller (or its successors or assigns) is made as collateral or security for a loan providing financing for the construction of the Project, then, at the option of the lender for such loan, Purchaser's rights under this Agreement will be subject and subordinate to the rights of the lender. In the event of a conflict between this Section 16.2 and any other section of this Agreement, this Section 16.2 will prevail.

#### **SECTION 17. CASUALTY AND CONDEMNATION.**

**17.1 Risk of Loss.** Seller will bear the risk of loss to the Property until Closing; thereafter, Purchaser will bear all risk of loss of its interest therein. In the event that either (a) the Property is damaged by fire or other casualty prior to Closing in a manner that must be repaired in order for Seller to obtain a temporary certificate of occupancy for the Property, and Seller estimates in its business judgment that such damage cannot be repaired before the Closing Date, as established by Seller's reasonable projection of what the Closing Date would have been had the subject casualty not occurred; or (b) the Property is damaged by fire or other casualty prior to Closing and Seller, in its reasonable judgment, estimates that the cost of repairing such damage exceeds 10% of the construction cost of the Property, then Seller, in either case at its election, may terminate this Agreement by written notice delivered to Purchaser within 20 business days after such casualty. If Seller does not terminate this Agreement, Seller will proceed to repair the damage, and the casualty will constitute a Force Majeure Delay. Seller will be solely entitled to all insurance proceeds paid to Seller as a result of a casualty except as expressly provided below. If Seller terminates this Agreement as provided in this Section 17.1, then Purchaser will be entitled to a refund of the Earnest Money. Upon

such repayment, Purchaser will have no other remedy for Seller's failure to proceed to Closing because of such damage, and Purchaser and Seller will be released from all other obligations under this Agreement.

**17.2 Condemnation.** If prior to Closing, Seller learns of any actual or threatened taking in condemnation or by eminent domain, or if Seller consents to a sale or conveyance in lieu of a taking, of all or any portion of the Project (a "**Taking**"), Seller will notify Purchaser promptly after Seller becomes aware of such occurrence. Any actual or formally threatened Taking of all or any material part of the Project between the Effective Date and the Closing Date will, at the election of either party, cause a termination of this Agreement. Seller or Purchaser, as the case may be, must exercise the election to terminate provided in this Section 17.2 (or will be deemed to have waived it) by written notice to the other party given within 15 days following Purchaser's receipt of Seller's notice given pursuant to this Section 17.2. Upon delivery of a termination notice, Seller will return an amount equal to the Earnest Money to Purchaser, and Purchaser and Seller will be relieved of any further obligations under this Agreement. If neither party terminates this Agreement: (a) Seller will be relieved of all obligations under this Agreement with respect to the portion of the Project that is the subject of the Taking; (b) Seller will receive all proceeds of any Taking or settlement thereof; (c) Seller agrees not to make any adjustment or settlement of the Taking proceeding, to the extent that fee title to all or any portion of the Lot is the subject of such Taking, without Purchaser's consent, which will not be unreasonably withheld or delayed; and (iv) at Closing, Seller will assign to Purchaser Seller's interest in the portion of the award attributable, if at all, to fee title to the portion of the Lot that is the subject of the Taking.

## **SECTION 18. DEFAULT AND TERMINATION.**

**18.1 Default by Purchaser.** If Purchaser defaults in the performance of any obligation under this Agreement, Seller must provide Purchaser with written notice of such default ("**Seller's Default Notice**"). Purchaser will have 20 days from Purchaser's receipt of Seller's Default Notice to cure any default. If Purchaser's default continues uncured for more than 20 days after Purchaser's receipt of Seller's Default Notice, then Seller will have the right to terminate this Agreement and will be entitled to retain the Earnest Money and Upgrade Payment, if any, as liquidated damages ("**Seller's Liquidated Damages**"). Nothing in this Section 18.1 may be construed to limit Seller's right to seek indemnification from Purchaser pursuant to Section 4.3.2.

**18.2 Default by Seller.** If Seller defaults in the performance of any obligation under this Agreement which Seller is obligated to perform on or before Closing, Purchaser must provide Seller with written notice of such default prior to invoking any remedies provided for under this Agreement ("**Purchaser's Default Notice**"). Seller will have 20 days from Seller's receipt of Purchaser's Default Notice to cure any default. If Seller's default continues uncured for more than 20 days after Seller's receipt of Purchaser's Default Notice, then Purchaser may terminate this Agreement, in which event Purchaser will be entitled to a return of an amount equal to the sum of the Earnest Money and Upgrade Payment, if any, which will be Purchaser's sole and exclusive remedy. **PURCHASER HEREBY WAIVES ALL RIGHTS TO SPECIFIC PERFORMANCE AND DAMAGES, WHETHER ACTUAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE.**

**18.3 Dispute Resolution Process.** If a dispute arises relating to this Agreement prior to Closing, the parties shall first proceed in good faith to resolve the dispute. If the parties are unable to resolve the dispute, the parties shall proceed in good faith to submit the matter to mediation. The parties to the dispute must agree, in writing, before any mediation settlement is binding. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within 30 days after written notice requesting mediation is delivered by one party to the other at the party's last known address. If the parties are unable to resolve the dispute after the mediation proceedings set forth in this section, the parties shall submit to binding arbitration in accordance with the rules of the American Arbitration Association then in effect. If a dispute arises relating to this Agreement after Closing, the such dispute shall be subject to, and Seller and Purchaser agree to be bound by the claim and dispute resolution provisions of Article XV of the Declaration (Seller is referred to as "Declarant" and Purchaser as an "Owner" therein), including but not limited to provisions regarding mandatory alternative dispute resolution methods and limitations on damages, and such provisions will apply to disputes hereunder as if those provisions were fully set forth herein.

**18.4 Attorneys' Fees.** If Purchaser or Seller initiates any action to enforce or interpret this Agreement, the party determined by the court or arbiter, as the case may be, to be the prevailing party in such action will be entitled to receive from the non-prevailing party all reasonable costs and expenses, including all reasonable attorneys' fees

(and reasonable fees of legal assistants) incurred by the prevailing party in such action and the presiding court or arbiter must make this award.

**18.5 Limitation on Damages.** Notwithstanding anything to the contrary set forth in this Agreement, neither Seller nor its affiliates shall be liable to Purchaser for any special, consequential, incidental, punitive, or indirect damages (including, but not limited to, lost profits) arising from, relating to, or otherwise in connection with any claim or dispute arising hereunder, even if such party or parties has been advised of the possibility of or could have foreseen such damages. This waiver applies regardless of the form of action, whether in contract, tort, or otherwise. By executing this Agreement, Purchaser waives its right and covenants not to assert any constitutional right to trial or trial by jury for any claims or disputes against any party described above and covenants and agrees that the waiver of trial and trial by jury described above shall be binding upon its successors and assigns and upon all persons asserting rights or disputes or otherwise acting on Purchaser's behalf. The provisions of this Section 18 shall survive the Closing.

**SECTION 19. RECORDING OF AGREEMENT.** If, at any time prior to Closing, Purchaser causes this Agreement or any memorandum, affidavit or other instrument which makes reference to this Agreement to be recorded in the real property Records, then Seller, at Seller's sole election, may deem Purchaser in default under this Agreement and may exercise its remedies pursuant to Section 18. Additionally, in the event Purchaser causes this Agreement or any such memorandum, affidavit or other instrument to be so recorded, Purchaser, upon demand, will execute and deliver to Seller all documents Seller may reasonably request to remove any cloud of title on the Property or the Project.

**SECTION 20. REPRESENTATIONS, WARRANTIES AND UNDERSTANDINGS.**

**20.1 No Investment Representations.** Purchaser acknowledges that neither Seller nor any of its agents or employees have made any warranties or representations upon which Purchaser has relied concerning the investment value, the possibility or probability of profit or loss or the tax consequences which may result from the purchase of the Property. Seller expressly disclaims and repudiates any representation from any source as to the possible economic benefit arising from ownership of the Property.

**20.2 Joint and Several Liability.** If Purchaser is comprised of two or more parties, each party will be jointly and severally obligated under this Agreement.

**20.3 Geologically Sensitive Area.** The Property may be located in a geologically sensitive area that may be subject to rock or debris slides.

**20.4 Mountain Activities.** The Property is located adjacent to or in the vicinity of skiing facilities and other all-season recreational areas (the "Mountain Recreational Areas"). The Mountain Recreational Areas are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances from activities relating to the construction, operation, use and maintenance of the Mountain Recreational Areas (the "Mountain Activities"). The Mountain Activities may include, without limitation: (a) movement and operation of passenger vehicles (including, without limitation, buses, vans and other vehicles transporting passengers over adjacent streets and over, around and through the Mountain Recreational Areas), commercial vehicles and construction vehicles and equipment; (b) activities relating to the construction, operation and maintenance of roads, trails, ski trails, skiways and other facilities relating to the Mountain Recreational Areas (including, without limitation, tree cutting and clearing, grading and earth moving and other construction activities, construction, operation and maintenance of access roads, snow-making equipment, chairlifts, gondolas, buses or other transportation systems, operation of vehicles and equipment relating to trash removal, snow removal, snow grooming, and over-the-snow or over-the-terrain transportation purposes, and operation of safety and supervision vehicles); (c) activities relating to the use of the Mountain Recreational Areas (including, without limitation, skiing, snow-boarding, ski-patrol activities, and other over-the-snow activities, hiking, horseback riding, alpine slide, bicycling and other recreational activities); (d) ski racing and organized events and competitions relating to the activities described in clause (c) above; (e) concerts, festivals, art and other shows and displays, fireworks displays, outdoor markets and other performances and special events; (f) lodging cabins, restaurants, clubs, restrooms and other public use facilities; (g) public access to adjacent U.S. Forest Service lands; (h) public parking facilities and the traffic related thereto; and (i) other activities permitted by law. The Mountain Activities may occur during daytime and nighttime and may be temporarily or permanently

interrupted, discontinued or modified, in whole or in part, from time to time. **PURCHASER AGREES THAT SELLER AND ITS AFFILIATES WILL NOT HAVE ANY OBLIGATION OR LIABILITY FOR, AND WAIVES ANY CLAIM AGAINST SELLER AND ITS AFFILIATES, AND THEIR CONTRACTORS OR AGENTS, ARISING FROM DISTURBANCE OF THE PROPERTY IN CONNECTION WITH MOUNTAIN ACTIVITIES OR DUE TO THE EXISTENCE, OCCURRENCE, OR THE TEMPORARY OR PERMANENT INTERRUPTION, DISCONTINUANCE OR MODIFICATION OF THE MOUNTAIN ACTIVITIES OR THE RECONFIGURATION OF THE MOUNTAIN RECREATIONAL AREAS.**

**20.5 Construction Activity.** The Property is located in an area that is subject to or near ongoing construction activities (collectively, the “Construction Activities”). The Construction Activities are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances. The Construction Activities may include, without limitation: (a) construction traffic (including, without limitation, construction vehicles, equipment and vehicles used or owned by Seller, its affiliates, adjacent landowners, and the employees, agents and contractors of any of them; and (b) construction activities (including, without limitation, grading, excavation, clearing, site work, relocation of roadways and public utilities and construction of improvements) relating to the Project or nearby properties. Purchaser acknowledges that Construction Activities may disturb the Property and such Owner’s use and occupancy of the Property. **PURCHASER AGREES THAT SELLER AND ITS AFFILIATES WILL NOT HAVE ANY OBLIGATION OR LIABILITY FOR, AND WAIVES ANY CLAIM AGAINST SELLER AND ITS AFFILIATES, AND THEIR CONTRACTORS OR AGENTS, ARISING FROM DISTURBANCE OF THE PROPERTY IN CONNECTION WITH CONSTRUCTION ACTIVITIES OR DUE TO THE EXISTENCE, OCCURRENCE, OR THE TEMPORARY OR PERMANENT INTERRUPTION, DISCONTINUANCE OR MODIFICATION OF THE CONSTRUCTION ACTIVITIES.**

**20.6 Commercial Activities.** A variety of commercial activities (the “Commercial Activities”) are and may be conducted within the Property and nearby and adjacent to the Property (the “Commercial Activity Areas”). The Commercial Activities are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances. The Commercial Activities may include, without limitation: (a) operation of full-service hotel(s) and/or timeshare, vacation club or similar facilities which may include health spa(s) with associated swimming pool(s) and other indoor or outdoor recreational facilities; (b) meetings, conferences, banquets and other group events; (c) sales and rentals of clothing, skis, ski-related equipment, other over-the-snow equipment, bicycles, and other recreational equipment; (d) sales of tickets for chairlifts, gondolas, other transportation systems, and other activities and events conducted on the Mountain Recreational Areas; (e) indoor and outdoor restaurant and bar operations (including, without limitation, the sale of food and alcoholic and non-alcoholic beverages for on-site and off-site consumption) and preparation of hot and cold food (through the use of barbecue grills, fire pits and other smoke and/or odor producing means) and beverages at indoor and outdoor facilities on and immediately adjacent to the Property; (f) sales of services relating to skiing, other over-the-snow activities, and other recreational activities (including, without limitation, tuning, waxing, repairing, mounting of bindings on, renting, storing and transporting skis, snowboards and similar equipment, ski schools and other forms of individual and group lessons, tours and excursions); (g) public use of the adjacent properties for access to the Mountain Recreational Areas, vehicle passenger drop-off and pick-up, locker room, changing room, rest room and lounge purposes in designated areas, and short-term clothing and equipment storage; (h) parking activities (including, without limitation, activities relating to valet parking or parking relating to adjacent properties); (i) the installation, operation and maintenance of illuminated and non-illuminated signage; (j) concerts and other outdoor and indoor entertainment, performances and special events, which may include amplified live or recorded music; and (l) any other uses or activities permitted by law. **PURCHASER AGREES THAT SELLER AND ITS AFFILIATES WILL NOT HAVE ANY OBLIGATION OR LIABILITY FOR, AND WAIVES ANY CLAIM AGAINST SELLER AND ITS AFFILIATES, AND THEIR CONTRACTORS OR AGENTS, ARISING FROM DISTURBANCE OF THE PROPERTY IN CONNECTION WITH CONSTRUCTION ACTIVITIES OR DUE TO THE EXISTENCE, OCCURRENCE, OR THE TEMPORARY OR PERMANENT INTERRUPTION, DISCONTINUANCE OR MODIFICATION OF THE COMMERCIAL ACTIVITIES OR THE RECONFIGURATION OF THE COMMERCIAL AREAS.**

**20.7 Use Rights.** Purchaser acknowledges that no right is created or arises from ownership of the Property either: (a) to use the Mountain Recreational Areas (including, without limitation, the Keystone ski area) or the Commercial Activity Areas; or (b) to any waiver or discount of the prices charged for lift tickets or other fees charged to users of the Mountain Recreational Areas or the Commercial Activity Areas. Any right that Purchaser acquires to use the Mountain Recreational Areas or Commercial Activity Areas may be created or arise, if at all, only

through a separate agreement with or license granted by the owners or operators of the Mountain Recreational Areas or Commercial Activity Areas and is not derived in any way through ownership of the Property. Notwithstanding the proximity of the Property to skiing operations conducted in the Mountain Recreational Areas, Seller does not, nor will Seller have, any obligation to provide or assure the Property of “ski-in” or “ski-out” access in the course of the use of those skiing facilities, and Purchaser acknowledges that such access may not be available and that in any case neither Seller nor its affiliates control the provision of such access. Without limitation on the generality of the foregoing, Purchaser specifically acknowledges that means and ways of access from and to Mountain Recreational Areas are presently owned and controlled by the United States Forest Service.

**20.8 No View Easement.** Notwithstanding any oral, written, or other representation made to Purchaser to the contrary by Seller, any real estate agency or any agent, employee or representative of Seller, or any other person, and by signing this Agreement Purchaser acknowledges and agrees that there is no easement or other right, express or implied, for the benefit of Purchaser or the Property for light, view or air included in or created by this Agreement, the Declaration or as a result of Purchaser owning the Property. Purchaser acknowledges and agrees that any view, sight lines, or openings for light or air available from the Property, or anywhere else on the Project as of Closing, may be blocked or altered in whole or in part in the future by virtue of natural or unnatural causes, including but not limited to future construction. **SELLER HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, OBLIGATIONS OR LIABILITIES CONCERNING EASEMENTS OR OTHER RIGHTS, WHETHER EXPRESS OR IMPLIED, FOR LIGHT, AIR, OR VIEW IN THE PROPERTY AND/OR THE PROJECT; PURCHASER HEREBY ACCEPTS SUCH DISCLAIMER, AND AGREES THAT SELLER AND ITS AFFILIATES WILL NOT HAVE ANY OBLIGATION OR LIABILITY FOR, AND WAIVES ANY CLAIM AGAINST SELLER OR ITS AFFILIATES, AND THEIR CONTRACTORS OR AGENTS, RELATED TO ANY LOSS OF LIGHT, AIR, OR VIEW THAT MAY AFFECT THE PROPERTY OR THE PROJECT.**

**20.9 Other Properties.** Purchaser acknowledges that other properties are located adjacent to and in the general vicinity of the Project (the “Other Properties”) and that the Other Properties may be used or developed pursuant to the land uses permitted by the County’s zoning ordinances, as well as any other governmental rules, regulations, or policies in effect now or in the future which are applicable to the Other Properties (collectively, the “Ordinances”). Neither Seller nor Seller’s employees, agents, officers, directors and affiliates make any representations concerning the existing or planned uses of the Other Properties. Purchaser further acknowledges that the zoning for the Project and the Other Properties is established and governed by the Ordinances. Any amendment of those Ordinances requires approval of the County. By executing this Agreement, Purchaser acknowledges that Purchaser has not relied upon any statements or representations regarding the Project, the Property or the Other Properties, including, without limitation, any representations made by Seller or any agents or employees of Seller or any real estate agency or any agent, except for those statements and representations expressly set forth in this Agreement and the Ordinances.

**20.10 Special District Disclosure and Acknowledgement.** By executing this Agreement, Purchaser acknowledges that the Project may in the future be located within a special taxing district created pursuant to Colorado law.

**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.**



**20.11 Disclosure of Oil and Gas Activity.** In accordance with Section 38-35.7-108, C.R.S., Purchaser acknowledges the following:

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

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

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

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

**20.12 Mold Disclosure.** Purchaser acknowledges that Seller has advised Purchaser that mold can proliferate in various environments in and about the Property, including, among others, damp areas such as bathrooms and within walls and partitions, which can cause damage to the Property and may also be harmful to human health. Exhibit D of this Agreement will be executed by Purchaser at Closing, and Purchaser agrees to follow the guidelines contained in and comply with the other provisions of Exhibit D.

**20.13 Radon Disclosure.** Purchaser acknowledges that Seller has advised Purchaser that the Colorado Department of Health and the Environment, the United States Environmental Protection Agency, and other agencies and parties have historically detected elevated levels of naturally occurring radon gas in residential structures throughout the State of Colorado, which has not been an uncommon occurrence, and such occurrences of, and long-term exposure to, elevated levels of radon gas may be harmful to human health and may also adversely affect the value of the Property and the Project. **SELLER HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, OBLIGATIONS OR LIABILITIES CONCERNING RADON GAS OR THE POSSIBILITY OF RADON GAS ENTERING THE PROPERTY; PURCHASER HEREBY ACCEPTS SUCH DISCLAIMER, AND AGREES THAT SELLER AND ITS AFFILIATES WILL NOT HAVE ANY OBLIGATION OR LIABILITY FOR, AND WAIVES ANY CLAIM AGAINST SELLER OR ITS AFFILIATES, AND THEIR CONTRACTORS OR AGENTS, RELATED TO ANY OCCURRENCES OF RADON GAS THAT MAY AFFECT THE PROPERTY, INCLUDING ANY LIABILITY OR LOSS ARISING FROM ANY PERSONAL INJURY, PROPERTY DAMAGE OR LOSSES, OR DEATH ARISING FROM OR ASSOCIATED WITH ANY OCCURRENCE OR PRESENCE OF RADON GAS, WHETHER AND WHENEVER KNOWN OR UNKNOWN, OR SUSPECTED OR UNSUSPECTED, ALL TO THE FULLEST EXTENT PERMITTED BY LAW.** Purchaser specifically agrees that the prevention of radon gas accumulation in the Property will be the exclusive responsibility of the Purchaser.

**20.14 Entire Agreement.** This Agreement, together with any exhibits or documents referred to in or supplied pursuant to the terms of this Agreement (all of which are incorporated into and form a part of this Agreement by this reference), contains the entire agreement between the parties and supersedes any and all prior oral representations, covenants, understandings or other agreements between the parties or their agents, including, without limitation, any reservation submitted to Seller by Purchaser. Any such reservation is hereby terminated. Purchaser

acknowledges that Purchaser has not relied upon any statements or representations regarding the development of the Project, including, without limitation, any statements or representations made by Seller or any agent or employee of Seller, or any real estate agency or agent, except for those statements and representations expressly set forth in this Agreement and the exhibits and documents incorporated herein. This Agreement may not be modified in any manner except by an instrument in writing signed by all parties.

**20.15 Legal Counsel.** Seller advises Purchaser to have Purchaser's legal counsel review this Agreement and all aspects of the transaction contemplated by this Agreement prior to Purchaser signing this Agreement.

**20.16 Water Supply Disclosure.** In accordance with Section 38-35.7-104, C.R.S., Purchaser specifically acknowledges that the source of potable water for the Property and the Project is a water provider, and that some water providers may rely, to varying degrees, on nonrenewable groundwater. Purchaser may wish to contact the provider to determine the long-term sufficiency of the provider's water supplies. The provider may be contacted as follows:

Name of provider:	Snake River Water District
Address:	0050 Oro Grande Rd Keystone, CO 80435
Telephone:	970-468-0328
Internet Address:	www.SnakeRiverWater.com

**20.17 Carbon Monoxide Alarms.** Note: If the Home has a fuel-fired heater or appliance, a fireplace, or an attached garage and includes one or more rooms lawfully used for sleeping purposes (bedroom), the parties acknowledge that Colorado law requires that Seller assure the Home has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each bedroom or in a location as required by the applicable building code.

**20.18 Survival.** The provisions of this Section 20 will survive Closing and will be binding upon Purchaser and its successors and assigns.

## **SECTION 21. MISCELLANEOUS.**

**21.1 Time of the Essence.** Time is of the essence with regard to performance of the obligations of Seller and Purchaser under this Agreement. Unless otherwise specified, all deadlines for performance of any obligation under this Agreement (and the time for any notices to be delivered in connection therewith) will end on the specified deadline date at 6:00 p.m. Mountain Time (Standard or Daylight Savings, as applicable). If the date of performance for any such obligation falls on a Saturday, Sunday, or banking holiday, the date of such performance will be extended to the next regular business day. If the date of performance for any obligation under this Agreement is triggered by an earlier date of performance under this Agreement, then any such date will still be computed based upon the actual trigger date, regardless of whether such trigger date falls on a Saturday, Sunday, or banking holiday.

**21.2 Binding Effect.** Upon the Effective Date, this Agreement will be binding upon and inure to the benefit of Purchaser and Seller and their respective heirs, personal representatives, successors and permitted assigns, subject to Section 16. All acknowledgement waivers made by Purchaser in this Agreement will survive Closing or the earlier termination of this Agreement.

**21.3 Section Headings.** The article, section and subsection headings herein are inserted only for convenient reference and do not define, limit or prescribe the scope of this Agreement.

**21.4 Governing Law.** This Agreement will be governed by and construed under the provisions of Colorado law, without regard to its choice of law principles.

**21.5 Severability.** If any term, covenant or provision of this Agreement is found to be illegal or unenforceable for any reason, the same will not invalidate any other term, covenant or provision, and all the remaining terms, covenants and provisions of this Agreement will remain in full force and effect.

**21.6**    No Offer; Effective Date. This Agreement is submitted to Purchaser on the understanding that it will not be considered an offer and will not bind Seller in any way until (a) Purchaser has delivered to Seller a counterpart of this Agreement signed by Purchaser; and (b) Seller has executed this Agreement and delivered this Agreement, fully executed by Seller and Purchaser, to Purchaser. Seller will enter the date on which Seller so delivers a fully executed Agreement in the introductory paragraph of this Agreement as the Effective Date.

**21.7**    Counterparts; Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which will be considered an original and all of which, when taken together, will constitute one and the same agreement. Either party may sign this Agreement electronically, which electronic (PDF) signature will be deemed an original counterpart of this Agreement.

**21.8**    Exhibits. Each exhibit attached to this Agreement is incorporated into and made a part of this Agreement. Any exhibit required to be attached to this Agreement in accordance with the provisions of this Agreement will, once so attached, be deemed incorporated into and made a part of this Agreement.

**21.9**    Use of “Alcove”. Purchaser will not use the name “Alcove” or any derivative thereof in any manner or context, including without limitation, in the name of any entity to which Purchaser assigns this Agreement pursuant to Section 16.1, in a printed or promotional materials or in any other manner, without Seller’s prior written consent.

**[Remainder of Page Intentionally Blank]**

Executed on the dates shown below.

**PURCHASER:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Purchaser's Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Purchaser executed this Agreement while physically present in

\_\_\_\_\_  
(insert State, or if outside the United States, insert Country).

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

E-mail: \_\_\_\_\_

**PURCHASER'S AGENT OR TRANSACTION BROKER:**

Signature: \_\_\_\_\_

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

Phone: \_\_\_\_\_

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

Real Estate Office: \_\_\_\_\_

**[Signature blocks continued on next page]**

**SELLER:**

One Keystone LLC,  
a Delaware limited liability company

By: Replay Holdings U.S. Inc., a Delaware corporation,  
its Managing Member

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

By: \_\_\_\_\_  
Name: Greg Ashley  
Title: Vice President

**Seller's Address:**

One Keystone LLC  
14421 N. 73rd Street  
Scottsdale, AZ 85260  
Attn: Mikki Clayton  
Email: mclayton@replaydestinations.com

**SELLER'S BROKER:**

SLIFER SMITH & FRAMPTON REAL ESTATE

By: \_\_\_\_\_  
Name: Michael Lytle  
Title: Broker Associate

## **SCHEDULE OF EXHIBITS**

- A. SITE PLAN/GENERAL DEPICTION OF LOT
- B. PRELIMINARY FLOOR PLANS
- C. FORM OF LIMITED WARRANTY AGREEMENT
- D. MOLD DISCLOSURE STATEMENT

**EXHIBIT A**

**SITE PLAN/GENERAL DEPICTION OF LOT**



**EXHIBIT B**

**PRELIMINARY FLOOR PLANS**

[SEE ATTACHED]



## EXHIBIT C

### FORM OF LIMITED WARRANTY AGREEMENT

This Limited Warranty Agreement (this “**Agreement**”) is extended as of this \_\_\_\_\_ (the “**Commencement Date**”), by One Keystone LLC, a Delaware limited liability company (the “**Seller**”) to \_\_\_\_\_ (the “**Purchaser**”) with respect to the following real property (the “**Lot**”):

[insert legal description]  
with an address of \_\_\_\_\_, Keystone, Colorado \_\_\_\_\_

As used herein, the term “**Home**” or “**Property**” means the residence, garage and related improvements constructed on the Lot. The warranty set forth in this Agreement applies to the Home and the improvements within the Home that exist as of the Commencement Date and that were constructed by Builder.

1. **Who Is Covered Under the Warranty.** The express limited warranty given under this Agreement is personal to the above-named Purchaser, cannot be transferred or assigned to any subsequent owner of the Home or Property, and shall automatically terminate if title to the Property is transferred.
2. **What Is Covered by the Warranty.**
  - 2.1. Generally. The Seller warrants that, subject to the limitations and exclusions provided in this Agreement, the construction of residential improvements performed by or for Seller at the Home or Property will be free from defects in workmanship according to all applicable building codes, government standards in effect at the time the Home was constructed, and in accordance with the “Standards of Construction” attached hereto as Exhibit A.
  - 2.2. The Warranty Period. As used in this Agreement, “**Warranty Period**” means the period beginning on the Commencement Date and ending on the day before the first anniversary of the issuance of the final certificate of occupancy for the Home.
  - 2.3. Third Party Warranties May Be Available. Seller encourages Purchaser to purchase, at its sole cost and expense, a home warranty for the Home from a third party. Such warranties may cover additional items not covered under this Agreement.
3. **Specific Coverage:** Subject to the exclusions set forth herein, Summit Homes warrants as follows:
  - 3.1. During the Warranty Period, Seller warrants that the following items, related to new construction only, will be free from defects in materials or workmanship: doors, windows, plumbing fixtures and cabinet work, unless the manufacturer provides a warranty, in which case the manufacturer’s warranty will prevail.
  - 3.2. For a period of sixty (60) days following the issuance of a final certificate of occupancy, Seller will make or cause to be made minor adjustments to cabinets, doors, windows, and reset loose ceramic tiles.
  - 3.3. During the Warranty Period, Seller warrants that the plumbing, heating, and electrical systems, related to new construction only, will be free of defective materials or workmanship which affect the proper functioning of the systems. During the warranty period, Purchaser is responsible for undertaking proper maintenance of such systems, such as changing filters or washers and glycol refresh. Seller shall not be liable for any failure of these systems which is attributable to Purchaser failing to provide proper maintenance.

**4. What Is Not Covered by the Warranty.** This Agreement does not cover the following items:

- 4.1. Loss or damage resulting from use of the Home for other than single-family residential purposes, or resulting from normal use, wear and tear or from abuse;
- 4.2. Loss or damage resulting from move-in or the subsequent moving of furniture, appliances, or other items;
- 4.3. Loss or damage resulting from (or made worse by) the negligence or intentional wrongful act of Purchaser or third parties including, by way of example, the use of light bulbs of a wattage other than designated by the manufacturer of the fixture in which they are installed, the use of appliances requiring voltage other than that for which the Home is wired, failure to check and maintain heating and air conditioning units (such as the failure to change filters or maintain clear air flow into and out of all air ports and ducts), or failure to clean out downspouts, gutters and drain covers;
- 4.4. Loss or damage resulting from explosions, fires, smoke, floods, the elements or adverse weather conditions (including sun damage, storms, winds, lightning, or hail), riots, civil commotions or unrest, landslides, mudslides, earth movement, earthquakes, electrical malfunctions, glass breakage, accidents, falling objects, vehicles or aircraft, acts of God or other casualty, including changes in the water table, changes in or erosion caused by stream or river channels, and/or drainage erosion ;
- 4.5. Loss or damage caused by birds, rodents, vermin, wild or domestic animals, or insects;
- 4.6. Loss or damage caused by changes in the grading of the property around the Home other than those performed by Seller or Seller's employees, agents, contractors, and subcontractors, or by the failure of Purchaser to maintain the grading of the property around the Home and manage ordinary and reasonable settlement of backfilled soils;
- 4.7. Any loss or damage caused by or to any landscaping on the property, including but not limited to any roots, trees, shrubs, sprinkler systems, fire pits and water features, or by the introduction of excessive water into the soils surrounding the Home by parties other than Seller or parties under the control of Seller;
- 4.8. Loss or damage to the extent caused by improper operation, negligent or intentional failure to maintain the Home in a good condition and repair by parties other than the Seller or parties under the control of Seller;
- 4.9. Any damage to the extent it is caused or made worse by: (i) negligence, improper maintenance or improper operation by anyone other than Seller or its agents or contractors; (ii) failure by Purchaser or by anyone other than Seller or its agents or contractors to comply with the limited warranty requirements of manufacturers of appliances, equipment, fixtures or other consumer products; or (iii) changes, alterations, or additions made to the Home or the by anyone after the Commencement Date, except those performed by Seller or its agents or contractors;
- 4.10. Loss or damage caused by dampness or condensation arising from Purchaser's failure to maintain adequate ventilation and/or adequate drainage, or caused by mold or fungus;
- 4.11. Loss or damage resulting from a malfunction of appliances and/or equipment or lines of the telephone, sewer, gas, power, or water companies, or arising from a malfunction of cable or internet services equipment or facilities;
- 4.12. Any failure of the heating and cooling systems serving the Home to maintain temperatures outside levels of performance established by the Seller, it being expressly understood and agreed that the heating and cooling systems are designed to maintain seasonally reasonable indoor temperatures (which may vary up to 15 degrees from floor to floor depending on the time of the year and prevailing

weather conditions), and depend upon proper maintenance by Purchaser, proper balancing of the registers, and the proper utilization of window coverings;

- 4.13. Any item furnished or installed by the Purchaser or any work done by the Purchaser, or any modification of the Home by the Purchaser (or on behalf of Purchaser by third parties), including, by way of example, built-in-shelving, lighting, sprinkler systems, security alarms, and security doors, and damage to or malfunction of wiring and/or wired fixtures which have been moved, modified, extended, expanded or otherwise altered in any way by anyone other than the Seller or Seller's contractors or subcontractors;
- 4.14. Natural variations in building materials, such as color variations in stained woods, including cabinets, paneling, doors, floors, stairs, railings and woodwork, and variations in natural stone, including variations in color, veining, and texture;
- 4.15. Any loss or damage for any defects for which the Purchaser receives payment, reimbursement, or compensation from insurance coverage or from public funds;
- 4.16. Any items listed as Non-Warrantable Conditions on the list that is incorporated into this Agreement, the Purchaser hereby acknowledging receipt of the list of Non-Warrantable Conditions;
- 4.17. Any appliance, piece of equipment, or other item that is a consumer product for the purposes of the Magnuson-Moss Warranty Act, 15 U.S.C. Sec. 2301 et seq., installed or included in the Home;
- 4.18. Loss or damage resulting from weight that exceeds the load bearing design of the Home;
- 4.19. Any damage to the Home, any person or property of any kind, resulting from a swimming pool, spa, hot tub or combination of same or to any of those items installed or included in the Home, including but not limited to water damage in the Home from the water source;
- 4.20. Cracks, chips, dents, scratches, mars, spots, stains, tarnishing, frays, snags or tears in, on or of the following are excluded from this Agreement unless such defects are listed on the Punch List: flooring material (including but not limited to bamboo, marble, ceramic or vinyl resilient tile and carpet); doors; walls and woodwork; cabinets and vanities; countertops and vanity tops (natural stone, laminate or solid surface); appliances; plumbing fixtures and equipment (including sinks, toilets, tubs, shower enclosures and faucets); mirrors; medicine cabinets; hardware; light fixtures; light switches and electrical outlets;
- 4.21. Nail or screw pops and/or wrinkled or open seams, cracks in walls, floors or ceilings, concrete shrinkage cracks, and swelling or shrinkage of wood floors resulting from natural shrinkage, drying out of building materials, normal settlement of the Home, seasonal changes, habitation of the Home, wind loads or other normal movement of the structural components;
- 4.22. Any and all damage relating to, consisting of, or caused directly or indirectly by mold and fungus ;
- 4.23. Variations in the material composition and discoloration, and small surface holes caused by air bubbles, color variations, form joint marks and minor chips and spalls;
- 4.24. Floor squeaks;
- 4.25. Frozen pipes or sillcocks caused by the failure to drain sillcocks, close shut-off valves, or disconnect garden hoses, and damage to the Home caused by frozen pipes and sillcocks;
- 4.26. Minor settlement of the foundation and the Home over time;

- 4.27. Loss or damage resulting from failure of Purchaser to give Seller proper or timely notice of any defect as required by this Agreement;
- 4.28. Landscaping;
- 4.29. Conditions arising from the normal condensation on or expansion or contraction of materials;
- 4.30. Damage, loss, or injury arising from acts, elements or natural occurrences beyond Seller's control;
- 4.31. Damage, loss, or injury such as bodily injury, property damage, or consequential damages occurring to any person or property because of a defect in the Home; and
- 4.32. Damage, loss or injury that may result from mold caused by Purchaser's improper operation and maintenance of the Home.

## 5. Remedies and Limitations.

- 5.1. Limitation of Remedies. Purchaser acknowledges and agrees that the Purchaser's sole remedies under this Agreement are the repair or replacement of the covered item as set forth in this Agreement, or the payment by the Seller to the Purchaser of the actual cost of repair or replacement of the defective item or component, at Seller's option and in accordance with the procedures set forth in this Agreement. These remedies are expressly conditioned upon Purchaser having first notified the Seller of Purchaser's request for warranty service as required in Section 6 below and allowing Seller the opportunity to correct the defective item or component. Purchaser acknowledges and agrees that Seller's aggregate liability under this Agreement, including without limitation all costs of repair, replacement, inspection, and related costs, is limited to the lesser of (a) the actual and direct cost of repairing or replacing the covered item or (b) 10% of the purchase price paid by the Purchaser for the Home, and that in no event shall Purchaser be entitled to, and **Purchaser hereby waives any and all claims for, incidental, consequential, secondary, punitive, or special damages or damage to personal property or damage to real property that is not part of the Home**
- 5.2. No Other Warranties. The Purchaser acknowledges and agrees that no other express warranties whatsoever apply to the structure of the Home and items that are functionally part of the Home. Except as provided in this Agreement, NEITHER SELLER NOR BUILDER MAKES ANY OTHER REPRESENTATIONS OR WARRANTIES, OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT LIMITED TO, THOSE OF WORKMANLIKE CONSTRUCTION, HABITABILITY, DESIGN, CONDITION, QUALITY OR OTHERWISE AS TO THE PROPERTY AND THE HOME AND OTHER IMPROVEMENTS CONSTRUCTED THEREON AND EACH OF SELLER AND BUILDER HEREBY EXPRESSLY DISCLAIMS ANY SUCH REPRESENTATIONS OR WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, CLIENT HEREBY ACKNOWLEDGES SUCH DISCLAIMER AND, TO THE FULLEST EXTENT PERMITTED BY LAW, (A) WAIVES ANY AND ALL CLAIMS RELATING TO DAMAGE TO OR DEFECTS IN THE HOME OR ANY IMPROVEMENTS, FIXTURES, APPLIANCES OR OTHER PERSONAL PROPERTY IN THE HOME, WHETHER ARISING UNDER COMMON LAW OR STATUTE, WHETHER BASED ON BREACH OF WARRANTY, TORT, OR ANY OTHER THEORY AT LAW OR IN EQUITY; AND (B) WAIVES ALL RIGHTS TO DAMAGES, WHETHER ACTUAL, SPECIAL CONSEQUENTIAL, PUNITIVE OR OTHERWISE, OR OTHER REMEDIES OR RELIEF RELATED TO ANY SUCH DAMAGE OR DEFECT.
- 5.3. Specific Legal Rights. This Agreement gives the Purchaser specific legal rights. The Purchaser may also have other rights under state or federal law.
- 5.4. Severability. If any provision of this Agreement is determined to be unenforceable, that determination will not affect the remaining provisions of this Agreement.

## 6. How to Obtain Service.

- 6.1. Notice of Claim and Inspection/Repair Process. Before filing any demand for mediation or arbitration as set forth below, Purchaser shall provide Seller with written notice of any Claim specifying the name, address, and telephone number of Purchaser; the nature of the defect when first occurred; the loss or damage claimed; and the days and times Seller or third parties acting on Seller's behalf may have access to the Home to inspect the loss or damage, and if necessary, take corrective action. Upon receipt of the list of claimed defects and repair items, Seller shall have a period of not less than 90 days from receipt of that list to review the Claim, inspect the Property, and repair any defects prior to any demand for mediation or arbitration being made by Purchaser, provided, however, that any delay caused by strikes, labor disputes, boycotts, shortages of labor materials, government action or inaction, weather, acts of God or any other fact or circumstance beyond the reasonable control of Seller shall not be a basis for a claim of lack of diligence shall be suspended for as long as any such condition, fact or circumstance shall continue to exist. Purchaser shall provide Seller and its agents and representatives reasonable access to the Property to inspect the alleged defective conditions or repair items and to repair any items listed. If Seller opts, in its sole discretion, to tender the costs of repair to Purchaser, Purchaser shall accept the payment from Seller and Seller, its sureties, contractors, agents and employees, shall be forever released from any and all further liability or claims in any way related to the repair items at issue and paid for. Seller will not, under any circumstances, reimburse Purchaser for costs incurred where Purchaser did not receive prior, specific written approval from Seller before incurring those costs. Notwithstanding anything to the contrary, Seller may require Purchaser to comply with the claim procedures of Builder with respect to any Claim.
- 6.2. Emergency Repairs. If the defect constitutes an emergency, Purchaser shall notify Seller by phone call at the telephone numbers provided below. In addition, Seller may from time to time designate another telephone number to contact in emergency situations. Emergency Situations are limited to:
- (a) Total loss of heat;
  - (b) Total loss of electricity;
  - (c) Total sewer stoppage;
  - (d) Plumbing leak that cannot be stopped without shutting off all the water in the Home;
  - (e) Roof leak; or
  - (f) Total loss of hot water.

If emergency repairs are needed, Purchaser shall provide Seller or its contractors and representatives immediate access to the Property as required by Seller or its representative.

## 7. Dispute Resolution.

- 7.1. Claims. For purposes of this Section 7, "**Claim**" will mean any dispute, action, claim or controversy, whether sounding in law or equity, that (a) concerns or requires the application of any provision of this Agreement; or (b) arises from any claim regarding any alleged defect in the design, engineering or construction of the Home, including without limitation, any soils related issues. Claims under this Section 7 are "Claims" under Section 15 of that certain Declaration of Covenants, Conditions and Restrictions for Alcove, a Town Home Planned Community dated \_\_\_\_\_ and recorded in the real property records of Summit County, Colorado, at Reception No. \_\_\_\_\_, and the provisions contained therein, including but not limited to provisions regarding mandatory alternative dispute resolution methods and limitations on damages, will apply to Claims hereunder as if those provisions were fully set forth herein. The foregoing

definitions of Claims notwithstanding, this Section 7 shall not be interpreted to expand the scope of Seller's responsibility under this Agreement or otherwise negate Purchaser's waivers in Section 4.

- 7.2. Construction Defect Action Reform Act; Notices of Claim. **Nothing in this Agreement relieves the Purchaser of the Purchaser's obligations to comply with all provisions of the Colorado Construction Defect Action Reform Act at C.R.S. § 13-20-801 *et seq.* ("CDARA"). No steps taken by the Seller or any other person to inspect, test, correct, or repair any alleged deficiencies shall operate to extend any time periods set forth under CDARA or this Agreement. Failure to comply with these notice provisions shall constitute a waiver by Purchaser of any and all claims that could have been asserted against Seller related to the Property.**
- 7.3. Waiver of Jury Trial. **PURCHASER UNDERSTANDS AND ACKNOWLEDGES THAT BY SIGNING THIS AGREEMENT, PURCHASER IS WAIVING HIS/HER/ITS LEGAL RIGHTS TO FILE A LAWSUIT OR APPEAL TO RESOLVE DISPUTES AND THE FINAL DECISION ON ANY DISPUTE WILL BE MADE BY AN ARBITRATOR AND NOT A JUDGE OR JURY.**
- 7.4. Expenses. Beyond filing fees and arbitrators' charges associated with the arbitration (those costs being the obligation of the party who files the notice of arbitration), each party is responsible for their own costs, expenses, experts and attorney fees in the mediation and arbitration.
8. **No Assignment or Transfer.** This warranty is offered only to Purchaser. It is not transferrable to any subsequent purchaser without Seller's consent.
9. **Applicable Law.** This Agreement shall be construed in accordance with laws of the State of Colorado.
10. **Entire Agreement.** This Agreement sets forth the entire agreement and understanding of Seller and Purchaser with respect to the subject matter of this Agreement. The terms and provisions of this Agreement may not be amended, supplemented or modified except in writing signed by both Seller and Purchaser.

*[Continued on the following page.]*

I/We acknowledge having received, read, understood and agree to be bound by the terms and conditions of this Agreement.

**PURCHASER:**

Date: \_\_\_\_\_ SAMPLE – FINAL FORM TO BE EXECUTED AT CLOSING

Date: \_\_\_\_\_ SAMPLE – FINAL FORM TO BE EXECUTED AT CLOSING

**SELLER:**

One Keystone LLC,  
a Delaware limited liability company

By: Replay Holdings U.S. Inc., a Delaware corporation, its  
Managing Member

Date: \_\_\_\_\_ By: SAMPLE – FINAL FORM TO BE EXECUTED AT  
CLOSING  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Seller's Address:

One Keystone LLC  
14421 N. 73rd Street  
Scottsdale, AZ 85260  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

Phone number for Notice of Claims pursuant to Section 6.1: \_\_\_\_\_

## EXHIBIT A TO FORM OF LIMITED WARRANTY

### **STANDARDS OF CONSTRUCTION**

The Standards of Construction hereafter set forth describe the quality of workmanship and materials which Summit Homes Construction, the Builder, will adhere to in the construction of your new home and are designed to help you, as the Initial Purchaser, determine the validity of any potential claim that you have discovered defects in workmanship and/or materials in your new home during the Warranty Period.

Only the most frequent problems which concern new home Initial Purchasers are addressed in these Standards of Construction. To the extent that standards have not been provided for given items in your home, Summit Homes Construction will construct your home, and will warrant that your home has been constructed, in accordance with the structural, mechanical, electrical, and quality standards of the home building industry for the geographic area in which your home is located which are in effect at the time your home is constructed. For convenience and ease of understanding, the Standards of Construction have been expressed in terms of performance standards which set forth the acceptable tolerances for each area of concern. Noncompliance with the performance standards beyond the acceptable tolerances should be brought to Summit Homes Construction's attention for inspection and, if caused by defects in workmanship and/or materials, for corrective action as provided in the Limited Warranty Agreement.

#### **I. SITE WORK**

**A. Area of Concern:** Settling of ground around the building and the utility trenches.

**Standard:** When the areas for the building and the utilities serving the building were excavated, the holes dug were larger than the actual size of the building and the utilities installed. In certain situations, due to engineering requirements, these areas cannot be compacted when they are backfilled and are, therefore, subject to slight settlement. If settlement occurs, Summit Homes Construction will fill the settled areas once during the Warranty Period provided that (i) Developer or Initial Purchaser has not changed the grades, swales, and drainage patterns of the site and (ii) Developer or Initial Purchaser assumes full responsibility for any landscaping affected thereby. Any additional settlement must be corrected by Developer or Initial Purchaser.

**B. Area of Concern:** Drainage

**Standard:** The grading of the site has been completed in a manner which assures that any water falling on the site, whether from natural precipitation or from lawn irrigation, will flow positively away from the foundation and slabs of the building. Developer or Initial Purchaser must maintain the grades, swales, and drainage patterns established by Summit Homes Construction as part of the final grade.

**C. Area of Concern:** Utility Equipment

**Standard:** Electricity and Natural gas are provided by Xcel Energy, communications are provided by Comcast, and water and sewer services are provided by the Town of Silverthorne and Silverthorne Sanitation District. These entities choose where to locate equipment necessary to provide these services and they cannot be moved.

**D. Area of Concern:** Revegetation/Native Grass

**Standard:** Native grass takes time, water and maintenance to establish in the Summit County environment. Following initial installation, disturbed topsoil allows fan weeds to grow rapidly. Fan weeds are not considered a warranty item and will not be addressed. Fan weeds should be cut after their first growth, and they will not grow back. If noxious weeds grow, they should be removed by hand prior to allowing seed growth, per Summit County regulations. Grass subjected to dog pee will die and will not be addressed as a warranty item. Watering and weed maintenance is the responsibility of the owner and/or owner's association. Native grasses are not intended to look like manicured lawn or sod and are not expected to reach full coverage.

#### **II. CONCRETE/PAVERS**

**A. Area of Concern:** Cracks in basement floor and/or slab on grade floor.

**Standard:** Cracks that do not exceed an average of 1/4 inch in width and 1/4 inch vertical displacement (where one portion of the concrete settles to a lower point than another) are to be expected.

**B. Area of Concern:** Cracks in garage slab.



**Standard:** Cracks that do not exceed an average of 1/4 inch in width and 1/4 inch vertical displacement are to be expected. Developer or Initial Purchaser must immediately seal all cracks appearing in the patio with a waterproof substance.

**C. Area of Concern:** Cracks in walkways and/or patios within property boundaries and/or driveway.

**Standard:** Cracks that do not exceed an average of 1/2 inch in width and vertical displacement that does not exceed an average of 1/2 inch are to be expected. Developer or Initial Purchaser must immediately seal all cracks appearing with a waterproof substance.

**D. Area of Concern:** Cracks in foundation walls.

**Standard:** Cracks that do not exceed an average of 1/8 inch are to be expected.

**E. Area of Concern:** Inconsistency in concrete surface on exposed foundation walls.

**Standard:** Inconsistencies in the surface are to be expected and will not be addressed as a warranty item.

**F. Area of Concern:** Movement of concrete slabs within the building.

**Standard:** All concrete slabs are designed to “float” or move independently from the concrete foundation walls. Extreme or excessive movement in the slab should be brought to Summit Homes Construction’s attention.

**G. Area of Concern:** Separation of stoops and steps.

**Standard:** So long as stoops and steps do not separate an average of more than one (1) inch from the building, settling, heaving, and separation of such stoops and steps is to be expected. Developer or Initial Purchaser must immediately seal cracks appearing with a waterproof substance.

**H. Area of Concern:** Pitting, sealing and spalling of finished concrete surfaces.

**Standard:** Under normal conditions, concrete surfaces should not disintegrate to the extent that the aggregate is exposed. Pitting, scaling, or spalling of concrete surfaces should be brought to the Summit Homes Construction’s attention unless the deterioration was caused by (i) salt, (ii) chemicals (iii) mechanical implements, or (iv) other causes beyond the reasonable control of Summit Homes Construction.

**I. Area of Concern:** Standing water on walkways, patios, stoops, and steps installed by Summit Homes Construction.

**Standard:** After a rain, some ponding or standing water is to be expected, but such water should not remain for more than 24 hours.

**J. Area of Concern:** Pavers not remaining level.

**Standard:** During freeze/thaw cycles there will be movement of individual pavers this is normal condition in this climate. Tapping on a raised paver with the handle end of a hammer will usually reset the paver to a more level position.

### III. MASONRY

**A. Area of Concern:** Cracks in mortar joints between brick and stone.

**Standard:** Cracks that do not exceed an average of 1/8 inch in width are to be expected due to normal expansion and contraction of the materials, provided that such cracks should not result in bricks or stones coming loose.

**B. Area of Concern:** Fireplace or chimney does not draw properly.

**Standard:** The fireplace and chimney shall be designed and constructed to be operable under normal conditions. Failure of the fireplace or chimney to draw properly should be brought to Summit Homes Construction attention unless the failure was or is caused by (i) temporary downdrafts created by abnormal weather conditions, e.g. high wind, or (ii) obstructions such as large branches of trees growing too close to the chimney.

### IV. CARPENTRY

**A. Area of Concern:** Expansion and contraction of exterior trim.

**Standard:** Open joints between exterior trim elements, including deck railings, deck boards, and siding, are to be expected to allow for expansion and contraction, but these are areas which should be properly caulked to exclude the entry of water. If open joints

in excess of 1/4 inch in width occur, Summit Homes Construction will re-caulk the open joints once during the Warranty Period. All other re-caulking is the responsibility of the Developer or Initial Purchaser.

**B. Area of Concern:** Cracks in exterior wood elements.

**Standard:** The exterior beams and posts used in the building will shrink, warp, twist, and develop cracks. This is normal, and unless it affects the structural integrity of the building, is not covered by the Warranty.

**C. Area of Concern:** Cracks in interior beams.

**Standard:** The interior beams used in the building will shrink, warp, twist, and develop cracks. This is normal, and unless it affects the structural integrity of the building, is not covered by the Warranty.

**D. Area of Concern:** Loose or squeaky subfloors.

**Standard:** The plywood subfloors shall be glued and nailed to the floor joists to minimize squeaky floors. Some squeaks in the floors and stairs are normal, and unless the flooring is loose or the noise is unusually loud, such squeaks are not covered by the Warranty.

**E. Area of Concern:** Joints in interior moldings.

**Standard:** Open joints in moldings or between moldings and adjacent surfaces, including interior beams, that do not exceed an average of 1/8 inch in width are to be expected. If open joints in excess of 1/8 inch occur, Summit Homes Construction will re-caulk the open joints once during the Warranty Period.

**F. Area of Concern:** Delamination or deterioration of exterior siding and decking.

**Standard:** Delamination or deterioration should not exceed manufacturer's specifications. To control cracking, remove snow from surface to stop freezing and thawing.

## **V. MOISTURE PROOFING**

**A. Area of Concern:** Water penetration in basement/garage.

**Standard:** If the building has any finished living space below grade, at the time the building was constructed, the outside surfaces of the foundation in those locations were moisture proofed to prevent any leaking. Do not drive in garages with car full of snow as this can cause cracking and/or mold.

**B. Area of Concern:** Dampness of basement walls and floors.

**Standard:** Dampness appearing in the concrete walls and floors of a new building is not unusual.

**C. Area of Concern:** Entry of rain and snow in attic.

**Standard:** To properly ventilate the building, attic vents and/or louvers must be installed and the entry of rain and snow through the vents and/or louvers is to be expected under severe weather conditions.

## **VI. ROOFING**

**A. Area of Concern:** Leaks in roof or flashing.

**Standard:** The roof or flashing should not leak unless caused by severe weather conditions. The limited warranty does not cover any leaks or damage caused by ice dams or snow accumulation on the roof. The formation of ice dams or snow drifts on the roof is a common condition in high altitude areas and is not a defect in materials or workmanship. With proper maintenance and prevention, the formation of ice dams or snow drifts can be minimized but not totally eliminated. Developer has been advised that regular maintenance and snow removal on the roof is required to minimize the damage caused by ice dams and snow accumulation. Developer has further been advised that the use of the heat tape installed on the buildings may also minimize any damage.

**B. Area of Concern:** Gutters and/or downspouts leak.

**Standard:** Gutters and downspouts should not leak although gutters will overflow during heavy rains. Gutters can be damaged by ice dams.

**C. Area of Concern:** Standing water in gutters.

**Standard:** Since gutters are installed approximately level, small amounts of standing water, but not exceeding one (1) inch in depth, are to be expected. Developer or Initial Purchaser must keep the gutters free from obstructions.

## **VII. DOORS AND WINDOWS**

**A. Area of Concern:** Warped interior doors.

**Standard:** Interior doors should not warp to exceed the National Woodwork Manufacturer's Association Standards (1/4 inch). Due to dry climate, all doors should be left in closed position to decrease warping. Humidifiers will help decrease warping.

**B. Area of Concern:** Warped exterior doors.

**Standard:** Exterior doors are subject to a great deal of stress due to the extreme difference in temperature from inside to outside and some warping is to be expected. However, the doors should remain operable and weather resistant and should not warp to exceed the National Woodwork Manufacturer's Association Standards (1/4 inch).

**C. Area of Concern:** Shrinkage of interior door panels.

**Standard:** Panels will shrink and expand and may expose unpainted/unstained wood surfaces. Care is needed to prevent scratching.

**D. Area of Concern:** Split in interior door panel.

**Standard:** Split panels should not allow light to be visible through the door. If light is visible, Summit Homes Construction will fill the split and match the paint or stain as closely as possible once during the Warranty Period.

**E. Area of Concern:** Garage doors fail to open properly.

**Standard:** Garage doors were installed within the manufacturer's installation tolerances and the doors should operate properly. Some entrance of snow and rain is to be expected under normal circumstances.

**F. Area of Concern:** Opening of doors and/or windows.

**Standard:** Doors and windows should operate with reasonable ease and should lock and unlock freely. Developer or Initial Purchaser must keep the window tracks and the sliding door tracks free from dirt and obstructions.

**G. Area of Concern:** Infiltration of air, dirt and dust around windows and doors.

**Standard:** Weather stripping has been properly installed around the exterior doors of the living area and the windows, but even with the weather stripping, some infiltration of air, dirt and dust is normally noticeable. It may still feel like there is air flow around your windows, but that is primarily due to the loss of heat at the coldest points in the exterior envelope and the movement of air as it cools.

**H. Area of Concern:** Broken glass and torn screens.

**Standard:** There should be no broken glass or torn screens at the time title to the building is delivered to Developer and Initial Purchaser. Any broken glass or torn screens must be noted by Developer or Initial Purchaser at the time of the preoccupancy inspection.

**I. Area of Concern:** Condensation on windows, doors and door hardware.

**Standard:** Condensation buildup on windows, doors and door hardware is normal, especially during very cold temperatures, as it is due to humidity inside the home. To mitigate this condensation buildup, keep your ventilation fans running, keep heat no higher than 70 degrees, do not use humidifiers and crack windows open.

**J. Area of Concern:** Condensation between windowpanes.

**Standard:** Condensation in between panes is not normal and can indicate a seal failure.

## **VIII. FINISHES**

**A. Area of Concern:** Imperfections in drywall and gypsum wallboard.

**Standard:** Slight imperfections such as hairline cracks not exceeding an average width of 1/16 inch, nail pops, and seam lines are to be expected due to expansion and contraction of the materials and normal settling of the building. Imperfections caused by defects in workmanship such as excess compound in joints, trowel marks, cracked corner beads, and blisters in tape are not acceptable.

**B. Area of Concern:** Tile/Natural stone flooring cracks or comes loose.

**Standard:** All tile and natural stone flooring should stay firmly in place and should not crack provided that the tile is not intentionally or accidentally struck with a hard object.

**C. Area of Concern:** Cracked grout joints.

**Standard:** Due to normal expansion and contraction of the materials, cracks appearing periodically in ceramic tile grout lines, particularly at the junction of the bathtub and tile, or shower pan and tile, are to be expected. Initial Purchaser must re-caulk these cracks as a part of his normal maintenance.

**D. Area of Concern:** Exterior paint, stain, or varnish peels, deteriorates, or fades.

**Standard:** Exterior paint and stain shall be installed according to manufacturer's specifications and should not peel or deteriorate during the Warranty Period. Fading is to be expected and the degree is dependent upon the climatic conditions. Varnish, lacquer, or sealed stain on exterior surfaces will deteriorate rapidly and is not covered by the Warranty.

**E. Area of Concern:** Interior varnish or lacquer finish deteriorates.

**Standard:** Interior varnish or lacquer shall be installed according to manufacturer's specifications and should not deteriorate during the Warranty Period. Fading is to be expected and the degree is dependent upon climatic conditions. Cracking and deterioration will occur if windows are left open or window coverings are not used.

**F. Area of Concern:** Interior paint improperly applied.

**Standard:** Interior paint shall be applied in a manner that visually covers all wall, ceiling, and trim surfaces.

**G. Area of Concern:** Visible carpet seams.

**Standard:** Carpet seams will be visible; however, visible gaps and carpet sections with gaps running in different directions are not acceptable.

**H. Area of Concern:** Carpet comes loose, seams separate, or excessive stretching occurs.

**Standard:** Wall to wall carpeting should not come loose and it should not be stretched excessively should the seams separate. Some stretching may occur during normal use. Summit Homes Construction will re-stretch if necessary.

**I. Area of Concern:** Minor fading of, and spots on, carpet, vinyl or wood flooring.

**Standard:** Exposure to light will cause spots and/or minor fading.

**J. Area of Concern:** Wood or vinyl plank flooring comes loose.

**Standard:** Wood and vinyl plank flooring should stay firmly in place and should not bubble, curl or come loose provided that it is not subject to excessive heat, which may cause the flooring to delaminate.

**K. Area of Concern:** Cracks between planks of finished wood flooring or vinyl.

**Standard:** Cracks not exceeding an average width of 1/8 inch are to be expected due to normal expansion and contraction of the materials.

**L. Area of Concern:** Wood or vinyl flooring has soft spots and/or humps where installed over concrete slabs.

**Standard:** The wood and vinyl flooring installed over concrete slabs is intended to "float" to allow the entire floor to expand and contract as a unit, resulting in some soft spots and/or minor humps that are normal and will not be fixed. Excessive humping resulting in "peaking" where the boards are separating will be fixed when the cracks exceed an average width of 1/8 inch.

## **IX. VENTILATION.**

### **A. Area of Concern:** Inadequate ventilation of attics.

**Standard:** The attic shall be ventilated in accordance with the requirements of the building code in effect in the jurisdiction in which the building is constructed at the time of construction.

## **X. COUNTERTOPS AND CABINETS.**

### **A. Area of Concern:** Solid surfaces are burned or scratched.

**Standard:** There should be no imperfection in the solid surfaces at the time title in the building is delivered to Initial Purchaser. Any defects must be noted by Developer or Initial Purchaser at the time of the preoccupancy inspection. Joints in the surface should does not exceed 1/16 inch in width. Heavy objects or people should not put weight on countertops.

### **B. Area of Concern:** Cabinets and/or countertops separate from walls and/or ceiling.

**Standard:** Gaps that do not exceed an average of 1/4 inch in width are to be expected due to normal shrinkage of the materials. The cabinet and countertop installation should remain secure notwithstanding the gap(s).

### **C. Area of Concern:** Cabinet malfunctions.

**Standard:** Cabinet doors, drawers, and other operating parts should operate with reasonable ease under normal conditions.

### **D. Area of Concern:** Warped cabinet door and/or drawer front.

**Standard:** Cabinet doors and drawer fronts should not warp to exceed 1/4 inch as measured from face frame to point of furthestmost warpage with door or drawer front in closed position.

### **E. Area of Concern:** Joint lines on cabinet door and/or drawer front.

**Standard:** Hairline cracks and visible joint lines on wood cabinets are unavoidable and are not warranty items. These lines may expand and contract with the change in seasons.

## **XI. PLUMBING.**

### **A. Area of Concern:** Leakage of any kind from piping.

**Standard:** No leaks of any kind should exist in any soil, waste, vent, or water pipe except where leakage is caused by flooded or inoperative septic system. Condensation on piping does not constitute leakage.

### **B. Area of Concern:** Faucet or valve leak.

**Standard:** Faucets or valves should not leak because of defects in either material or workmanship. Leakage caused by worn washers and/or seals is the responsibility of the Initial Purchaser.

### **C. Area of Concern:** Fixtures do not hold water.

**Standard:** Stoppers on fixtures should retain water for a sufficient length of time to accomplish the intended use of the fixtures.

### **D. Area of Concern:** Defective plumbing fixtures, appliances, or trim fittings.

**Standard:** Fixtures, appliances, and fittings should comply with the manufacturer's Standards.

### **E. Area of Concern:** Stopped up sewers, fixtures, or drains.

**Standard:** Due to expansion, contraction, and the flow of water through the pipes there will be noise emitted from the water pipes and drain system. Only "water hammer" or pipe vibrations should be brought to Summit Homes Construction's attention.

### **F. Area of Concern:** Stopped up sewers, fixtures, or drains.

**Standard:** Unless clogged due to Summit Homes Construction's negligence, sewers, fixtures, and drains should operate properly to accomplish their intended function.

**G. Area of Concern:** Frozen sill cocks.

**Standard:** Outside sill cocks should not freeze provided that all hoses are removed and the water is shut off during the winter months. This includes removing hoses during freezes.

**H. Area of Concern:** Plumbing pipes freeze and burst.

**Standard:** To prevent freezing, drain, waste, vent, and water pipes should be adequately protected during normally anticipated cold weather as required by the applicable building code and as defined in ASHRAE design temperatures. Thermostats in the unit must be kept at minimum temperature of 55° or pursuant to the furnace manufacturer guidelines. Services must be performed periodically according to manufacturer's guidelines and are the responsibilities of the Initial Purchaser.

**I. Area of Concern:** Water supply system does not deliver water.

**Standard:** Summit Homes Construction shall properly install the service connections to the municipal water main or the private water supply, as appropriate. Private systems shall be designated and installed in accordance with the applicable building, plumbing, and health codes.

**J. Area of Concern:** Porcelain or fiberglass surfaces crack or chip.

**Standard:** There should be no cracks or chips in the porcelain or fiberglass surfaces at the time title to the building is delivered to Purchaser. Any crack or chips must be noted by Purchaser at the time of the preoccupancy inspection.

## **XII. HEATING. NOTE: THE STANDARDS IN THIS SECTION XII DO NOT APPLY TO BUILDINGS HEATED BY ACTIVE OR PASSIVE SOLAR ENERGY.**

**A. Area of Concern:** Insufficient heat.

**Standard:** Summit Homes Construction shall install a heating system in accordance with the design conditions specified in the ASHRAE handbook which is capable of maintaining an inside temperature of 70 degrees F., as measured in the center of each room at a height of five feet above the floor, at design temperature, balancing registers, dampers, and other minor adjustments are the responsibility of Developer or Initial Purchaser.

**B. Area of Concern:** Condensation lines clog.

**Standard:** At the time title to the building is delivered to Developer and Initial Purchaser, the condensation lines shall be unobstructed, under normal use, condensation lines will clog and must be maintained by Initial Purchaser.

**C. Area of Concern:** Refrigerant lines leak.

**Standard:** Under normal conditions, refrigerant lines should not develop leaks.

## **XIII. ELECTRICAL**

**A. Area of Concern:** Wiring does not carry its designated fuse load to the electrical lines.

**Standard:** Wiring shall conform to the applicable electrical code requirements and shall be capable of carrying the designated load for normal residential use to the electrical box.

**B. Area of Concern:** Lighting fixtures, switches, or electrical outlets do not work. **Standard:** All lighting fixtures, switches, and electrical outlets shall be operative.

**C. Area of Concern:** Lights flicker in parts of the building.

**Standard:** Flickering may occur during starting of some motor driven equipment and is considered acceptable.

**D. Area of Concern:** Fuses blow or circuit breakers kick out.

**Standard:** Fuses and circuit breakers should not activate under normal usage, except in the case of ground fault interrupters which are susceptible to moisture and/or weather conditions. Ground fault interrupters are sensitive safety devices installed into the electrical system to protect against electrical shock and shall be installed in accordance with the applicable electrical code.

**E. Area of Concern:** Drafts from electrical outlets.

**Standard:** The electrical junction box on exterior walls may produce an air flow whereby cold air can be drawn through the outlet into a room and is considered acceptable.

#### **XIV. MAJOR STRUCTURAL DAMAGE.**

In addition to the Warranty regarding the Standards of Construction, Summit Homes Construction warrants that during the Warranty Period, the building will be free from Major Structural Damage. As used herein and in the Limited Warranty Agreement, “Major Structural Damage” means actual damage to the load-bearing portion of the building which affects its load bearing function and which vitally affects or is imminently likely to vitally affect the use of the building for dwelling purposes.

For the purpose of clarifying the definition of Major Structural Damage, the following phrases shall have the following meanings:

**A.** “Actual Damage” means the structural failure of some part of the load bearing portion of the building.

**B.** “Load-bearing portion of the building” means the framing members and other structural components that transmit the dead and live loads to the supporting ground and includes roof rafters and trusses, ceiling and floor joists, structural systems, load-bearing partitions and walls, supporting beams and headers, columns, and foundation systems and footings. The following components, among others are not considered load-bearing: roof singles and sheathing; dry wall and plaster; exterior siding; brick or stone facade; subfloor and flooring materials; wall tile and or other wall coverings; non load-bearing partitions; non-structural concrete floors in attached garages, basements, utility and laundry areas and other areas not finished by Summit Homes Construction as living space, electrical, heating, cooling, and plumbing systems: appliances, equipment, and fixtures, paint; doors; windows; trim; cabinets; hardware and insulation.

**C.** A defect “affects the load bearing function” of the building when the defect endangers the capacity of the load bearing portion of the building to transmit the imposed live and dead loads to the ground or when the defect causes the load bearing portion of the building to become unstable.

**D.** A defect “vitally affects the use of the building for dwelling purposes” when the defect is of such a serious nature that the continued use of the building for dwelling purposes is threatened. Although the building does not have to be rendered dangerous or otherwise uninhabitable, evidence that the defect has affected the value of the building does not necessarily demonstrate that the use of the building for dwelling purposes has been affected.

## EXHIBIT D

### MOLD DISCLOSURE STATEMENT

This Mold Disclosure Statement (this “**Disclosure**”) is a part of the Town Home Purchase and Sale Agreement (the “**Agreement**”) dated as of \_\_\_\_\_ and executed by One Keystone LLC, a Delaware limited liability company (“**Seller**”), and \_\_\_\_\_ (“**Purchaser**”), for the real property legally described as follows (the “**Lot**”):

*[legal description to be inserted]*

Together with the attached single-family residence and related improvements constructed on the Lot (the “**Home**”),.

Molds, mildew, fungi, bacteria and microbiologic organisms (collectively, “**Molds**”) are present in soil, air and elsewhere in the environment. Molds can proliferate in various environments, including, among others, damp areas such as bathrooms and within walls and partitions. Certain parties have expressed concerns about the possible adverse effects on human health from exposure to Molds. Due to various reasons, including the varying sensitivities of different individuals to various types of Molds and other contaminants, there currently exist no state or federal standards regarding acceptable levels of exposure to Molds. According to the Consumer Product Safety Commission and the American Lung Association, some diseases or illnesses have been linked with biological pollutants in the indoor environment, including some forms of Mold. However, it is believed that many of these conditions may also have causes unrelated to the indoor environment. Therefore, it is presently unknown how many potential health problems relate primarily or exclusively to indoor air quality or Molds. Purchaser is advised that Seller is not qualified and has not undertaken to evaluate all aspects of this very complex issue. **PURCHASER ACKNOWLEDGES THAT SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING, THE PAST, CURRENT OR FUTURE, PRESENCE OR ABSENCE OF MOLDS IN OR IN THE VICINITY OF THE HOME OR IN ANY OTHER PORTION OF THE PROJECT AND THAT THE LIMITED WARRANTY SPECIFICALLY EXCLUDES FROM COVERAGE THE PRESENCE OF MOLD IN THE HOME, REGARDLESS OF THE SOURCE OR CAUSE.** Seller recommends that Purchaser, at Purchaser’s expense, conduct its own investigation and consult with such experts as Purchaser deems appropriate regarding the occurrence and effects of Molds, the potential sensitivity or special risk Purchaser, his or her family members, and other individuals who will occupy or use the Home may have with respect to Molds, and methods to reduce or limit Molds within the Home.

When excessive moisture or water accumulates indoors, Mold growth can and will occur, particularly if the moisture problem remains unaddressed. There is no practical way to eliminate all Mold in an indoor environment. The key to controlling indoor Mold growth is to control moisture. Purchaser agrees to maintain the Home in such a manner as to reduce the potential for increased Mold formation or growth, including, without limitation, (a) keeping dryer and other vents and/or fans clear and functioning, and preventing and repairing plumbing, window and other leaks and sources of moisture, and (b) maintaining the setting on the Home’s humidistat (if any) at a relative humidity of 30% or less. Purchaser agrees to make periodic inspections of the Home after closing for the presence of Molds or conditions which may increase the ability of Molds to propagate within the Home, and to monitor the Home on a continual basis for excessive moisture, water or Mold accumulation. If water or moisture is discovered in or around the Home, Purchaser should immediately seek to eliminate the source of the water or moisture. Failure to eliminate the source of moisture could result in additional damage and the growth of Mold. Plumbing leaks and water penetrations that are covered by the Limited Warranty Agreement during the term of the Limited Warranty Agreement must be reported to Seller immediately. If the Limited Warranty Agreement has expired or the Limited Warranty Agreement does not cover the specific problem, Purchaser should not delay in having professionals address the problem. Seller will not be responsible for damages, Purchaser hereby waives all rights to damages and subrogation of damages, and Purchaser agrees to indemnify Seller and hold Seller harmless from damages, including in all cases personal injury or property damage, caused by the presence of Mold and/or water or moisture in the Home or other portions of the Project to the extent that the damages are caused by: (i) Purchaser’s negligence or failure to properly maintain and monitor the Home; (ii) Purchaser’s failure to promptly take appropriate corrective measures and minimize any damage caused by water or moisture (including, without limitation, failure to promptly notify and



engage the help of appropriate professionals); or (iii) Purchaser's failure to promptly notify Seller of the water or moisture problem and to provide Seller with an opportunity to dry the moisture or water, correct the source of the problem, and remediate, if necessary, any moisture conditions resulting from defects in workmanship and materials covered by the Limited Warranty.

**SELLER WILL NOT BE RESPONSIBLE FOR DAMAGES AND PURCHASER HEREBY WAIVES ALL RIGHTS TO DAMAGES AND SUBROGATION OF DAMAGES CAUSED BY THE PRESENCE OF MOLD IN THE HOME, REGARDLESS OF THE SOURCE OR CAUSE, TO THE FULLEST EXTENT PERMITTED BY LAW. PURCHASER AGREES TO INDEMNIFY SELLER AND HOLD SELLER HARMLESS FROM DAMAGES, INCLUDING IN ALL CASES PERSONAL INJURY OR PROPERTY DAMAGE, CAUSED BY THE PRESENCE OF MOLD IN THE HOME TO THE EXTENT THAT THE DAMAGES ARE CAUSED BY: (I) PURCHASER'S NEGLIGENCE OR FAILURE TO PROPERLY MAINTAIN AND MONITOR THE HOME; (II) PURCHASER'S FAILURE TO PROMPTLY TAKE APPROPRIATE CORRECTIVE MEASURES AND MINIMIZE ANY DAMAGE CAUSED BY WATER OR MOISTURE (INCLUDING, WITHOUT LIMITATION, FAILURE TO PROMPTLY NOTIFY AND ENGAGE THE HELP OF APPROPRIATE PROFESSIONALS); OR (III) PURCHASER'S FAILURE TO PROMPTLY NOTIFY SELLER OF THE WATER OR MOISTURE PROBLEM AND TO PROVIDE SELLER WITH AN OPPORTUNITY TO DRY THE MOISTURE OR WATER, CORRECT THE SOURCE OF THE PROBLEM, AND REMEDIATE, IF NECESSARY, ANY MOISTURE CONDITIONS RESULTING FROM DEFECTS IN WORKMANSHIP AND MATERIALS COVERED BY THE LIMITED WARRANTY.**

The U.S. Environmental Protection Agency, the Consumer Product Safety Commission, the American Lung Association and others recommend taking measures such as those listed below to help control moisture in and around the Home. These suggestions may assist Purchaser in preventing and addressing Mold growth in the Home. The following list is not meant to be all-inclusive.

1. Keep the Home free of dirt and debris that can harbor Mold.
2. Fix leaking plumbing and any other source of unwanted water immediately, including any drips or "sweating" pipes.
3. Maintain proper indoor humidity. Equipment that conditions the air, such as air conditioners, humidifiers (if any) and ventilation systems must be operated year round. Bathroom fans should be used at all times when showering or bathing. Any humidistat located in the Home should at all time be set at a relative humidity of 30% or lower. Any higher setting will encourage the growth of Mold.
4. Raise the temperature in areas where moisture condenses on surfaces and open doors between rooms to increase air circulation in the home, including doors to closets.
5. Have major appliances, such as furnaces, heat pumps, central air conditioners, window air conditioning units, ventilation systems and furnace attached humidifiers inspected, cleaned and serviced regularly by a qualified professional.
6. Clean and dry refrigerator, air conditioner and (if any) dehumidifier drip pans and filters regularly and make sure that your refrigerator and freezer doors seal properly.
7. Respond promptly to signs of moisture or Mold.
8. Do not allow moisture to stand or make contact with carpet, furniture and cellulose-based materials, such as wood, drywall or other non-tile, non-plastic or non-metal materials.
9. Dry all water damaged areas and items immediately to prevent Mold growth.
10. If Mold develops, clean up the Mold by washing off hard surfaces with detergent and water and completely dry the surface.

11. Depending upon the nature and extent of the Mold infestation, trained professionals may be needed to assist in the remediation effort.

This Disclosure may be executed in one or more counterparts, each of which will be considered an original and all of which, when taken together, will constitute one and the same agreement.

The terms of this Disclosure shall survive Closing.

PURCHASER:

Date: \_\_\_\_\_ SAMPLE – FINAL FORM TO BE EXECUTED AT CLOSING

Date: \_\_\_\_\_ SAMPLE – FINAL FORM TO BE EXECUTED AT CLOSING

SELLER:

One Keystone LLC,  
a Delaware limited liability company

By: Replay Holdings U.S. Inc., a Delaware corporation, its  
Managing Member

Date: \_\_\_\_\_ By: SAMPLE – FINAL FORM TO BE EXECUTED AT CLOSING  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_