

**GROUND LEASE**  
(Basecamp Studios)

THIS LEASE, dated effective \_\_\_\_\_, 2022, (the "Effective Date") made by and between ALPINE INN LLC, a Colorado limited liability company ("Landlord"), and BASECAMP RESIDENCES LLC, a Colorado limited liability company ("Tenant"), Landlord and Tenant having the following addresses on the date of this Lease:

Landlord:

Alpine Inn LLC  
211 Marksberry Way  
Breckenridge, Colorado 80424  
Attention: Lester Warpecha  
(970) 389-2729

Email: [warpecha@gmail.com](mailto:warpecha@gmail.com)

With copies of all notices to:

Isabel Rawson  
Email: [isabel@summitrealestate.com](mailto:isabel@summitrealestate.com)  
(970) 389-0397

Tenant:

Basecamp Residences LLC  
777 Pearl Street, Suite 200  
Boulder, Colorado 80302  
Attention: David G. O'Neil  
(303) 443-5600 Ext 711

With copies of all notices to:

Richard C. Nehls  
Packard and Dierking, LLC  
Suite 200  
2595 Canyon Blvd  
Boulder, Colorado  
(303) 447-0450

In consideration of the premises, the mutual covenants herein contained, and each act to be performed hereunder by the parties, Landlord and Tenant enter into the following lease agreement (this "Lease").

**ARTICLE 1. FUNDAMENTAL LEASE PROVISIONS, EXHIBITS AND MEMORANDUM OF LEASE**

1.1 Fundamental Lease Provisions. Certain fundamental lease provisions (the "Fundamental Lease Provisions") are set forth below:

- |                      |  |
|----------------------|--|
| (a) Demised Premises | The area described and depicted on Exhibit A.  |
| (b) Development      | Lot 1, Block A, Discovery Interchange West, according to the Plat filed May 14, 1973 at Reception No. 133802, County |

of Summit, State of Colorado.

(c) Term: Ninety-Nine (99) Lease Years.  
.....(See Section 3.1)

(d) Base Rent Per Sold Unit: The initial annual Base Rent shall be \$1,200 or such additional Base Rent as the parties shall agree for each Unit that has been sold by Tenant (the "Base Rent Per Sold Unit"). As additional Units are sold by Tenant (each, a "Sold Unit"), the Base Rent shall increase on the date of sale of each Sold Unit so that at any given time, the Base Rent is equal to the number of Sold Units times the Base Rent Per Sold Unit.  
Each year the Base Rent Per Sold Unit shall increase in accordance with Section 4.2;  
.....(See Sections 4.1 and 4.2)

(e) Percentage Rent: None.

References appearing in this Section 1.1 designate some of the other places in the Lease where additional provisions applicable to the particular Fundamental Lease Provisions appear. Each reference in this Lease to any of the foregoing Fundamental Lease Provisions shall be construed to incorporate all of the terms provided for under such additional provisions, and the Fundamental Lease Provision shall be read in conjunction with all other provisions of this Lease applicable thereto. Unless the context otherwise requires, all terms contained in this Section shall have the same meaning when used in this Section as when they are used or defined elsewhere in this Lease.

1.2 Exhibits. The following exhibits are attached to and made a part of this Lease for all purposes:

- (a) Exhibit A Metes and Bounds Description of the Demised Premises together with a schematic depiction of the Demised Premises

1.3 Recordation of Lease. This Lease (or an amended and restated version hereof) shall be recorded in the real estate records of the Summit County Clerk and Records office (the "Records") at or about the time that the Demised Premises are subjected to a condominium regime as provided in Section 5.3(c) hereof. Upon termination of this Lease by expiration or

otherwise, Landlord and Tenant shall execute, acknowledge and deliver the necessary documents to release of record any this Lease. Tenant shall be responsible for the payment of all transfer and/or recording taxes (or taxes of a similar nature) that may be imposed by reason of the recordation of this Lease.

1.4 Definitions. The following words shall have the following meanings when used in this Lease:

(a) "Additional Notice" means an additional written notice of default after the non-performing party fails to cure a default within the Applicable Grace Period.

(b) "Additional Rent" means all charges payable under this Lease by Tenant on account of Real Estate Taxes or otherwise (including but not limited to late fees), whether or not denominated herein as rent or as additional rent.

(c) "Additional Rent Commencement Date" means the date that a building permit is issued for the Tenant construction described in Section 5.3 below.

(d) "Applicable Grace Period" has the meaning set forth in Section 10.3.

(e) "Base Rent" means the amount set forth in Sections 1.1(d) and 4.2 hereof.

(f) "Base Rent Commencement Date" has the meaning set forth in Section 5.1.

(g) "Base Rent Per Sold Unit" has the meaning given it in Section 1.1(d).

(h) "Buildings" means the buildings containing the Units to be constructed by Tenant on the Demised Premises.

(i) "CPI Adjustment" is calculated on each Date of Increase and is a variable by which the Base Rent in effect immediately prior to the corresponding Date of Increase is multiplied to determine the Base Rent on the corresponding Date of Increase. The CPI Adjustment shall be equal to one (1) plus a fraction, the numerator of which is the latest Price Index that is published and available prior to the Date of Increase (the "*Ending Price Index*") minus the Price Index as of a date 12 months prior to the date of the Ending Price Index (the "*Beginning Price Index*"), and the denominator of which is the Beginning Price Index. In the event that such fraction is a negative number, then the CPI Adjustment shall equal one (1).

(j) "Condominium Declaration" means the condominium declaration to be filed with the Summit County Clerk and Recorder when the Units are converted into condominium units and all subsequent amendments thereto.

(k) "Date of Increase" is the first day of each Lease Year beginning with the first day of the second Lease Year. Such date is the day in each year that Base Rent increases as provided in Section 4.2.

- (l) “Demised Premises” has the meaning given it in Section 1.1(a).
- (m) “Development” has the meaning given it in Sections 1.1(b).
- (n) “Development Agreement” means the Development Agreement between Landlord and Tenant dated May 21, 2021.
- (o) “Development Period” means the period between the Effective Date and the Base Rent Commencement Date.
- (p) “Effective Date” means the first date by which this Lease has been executed by both Tenant and Landlord.
- (q) “Event of Default” has the meaning set forth in Section 10.1(a).
- (r) “Force Majeure Events” has the meaning set forth in Section 15.9.
- (s) “Fundamental Lease Provisions” means the lease provisions set forth in Section 1.1 of this Lease.
- (t) “Hazardous Substance” means any petroleum product, asbestos product, lead, lead paint, mold or mold conditions, or any other material, substance or waste that is recognized as being hazardous or dangerous to health or the environment by any federal, state or local agency having environmental protection jurisdiction over the Demised Premises.
- (u) “Homeowner’s Association” means the homeowner’s association that will be described in the Condominium Declaration.
- (v) “Interest Rate” means an annual rate of interest equal to the lesser of (i) the prime interest rate from time to time contained in *The Wall Street Journal* (or its successor or reasonable equivalent) plus five percent (5%), or (ii) the highest interest rate permitted by applicable Law.
- (w) “Law” means any and all applicable present or future federal, state or municipal laws, rules, orders or regulations (collectively “Laws”).
- (x) “Lease” means this lease.
- (y) “Lease Year” shall mean a period of twelve (12) consecutive calendar months, the first Lease Year to commence on (i) the Base Rent Commencement Date, if the Base Rent Commencement Date is the first day of a calendar month, or (ii) the first day of the calendar month following the Base Rent Commencement Date, if the Base Rent Commencement Date is not the first day of a calendar month. The portion of the Term following the Base Rent Commencement Date and prior to the end of the first Lease Year shall be treated for all purposes hereunder as part of the first Lease Year.
- (z) “Price Index” is the Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Labor, All Items for All Urban Consumers

Denver-Boulder-Greeley metropolitan area (1982-84=100) (the “*CPI-U*”). If the CPI-U (or a successor or substitute index) is not available, a reliable governmental or other nonpartisan publication evaluating the information used in determining the CPI-U shall be used as the Price Index.

- (aa) “Real Estate Taxes” has the meaning set forth in Section 9.4(a).
- (bb) “Reference Date” has the meaning set forth in Section 15.22.
- (cc) “Site Plan” means the depiction of the Demised Premises and the improvements to be constructed thereon as set forth on Exhibit A attached hereto.
- (dd) “Snow Stack Easement” means the Easement Grant recorded with the Summit County Clerk and Recorder’s office on June 13, 1986 at Reception No. 318707.
- (ee) “Sold Unit” has the meaning given it in Section 1.1(d).
- (ff) “Taking” has the meaning set forth in Section ARTICLE 12.
- (gg) “Taking Impacting Tenant” has the meaning set forth in Section 12.3.
- (hh) “Tenant” means Basecamp Residences LLC so long as it remains the tenant under this Lease. Thereafter, upon an assignment or other transfer, “Tenant” means the successor or assign that is the then current tenant under this Lease.
- (ii) “Tenant’s Furniture, Fixtures and Equipment” shall mean any and all furniture and other items of personal property, but excluding building fixtures such as HVAC, equipment.
- (jj) “Tenant’s Invitees” means Tenant’s or its subtenant’s respective suppliers, employees, agents, customers, contractors, business invitees, subtenants, licensees and concessionaires.
- (kk) “Tenant’s Restoration” means the repair, restoration, or rebuilding that Tenant is required by Section 11.1(a) to perform to the Buildings and the leasehold improvements constructed by Tenant following a casualty.
- (ll) “Term” means the Term as set forth in Section 1.1(d) and Section 3.1.
- (mm) “Town Approval” means compliance with all the Laws of the Town of Frisco and if necessary, for the particular proposed action, the express consent and approval of the Town of Frisco.
- (nn) “Units” means the approximately twenty-nine (29) approximately 350 square foot to 525 square foot residential units and one approximately 350 square foot office unit to be constructed on the Demised Premises by Tenant as provided in Section 5.3(a).

1.5 Snow Stack Easement. If the Snow Stack Easement has not been terminated or

relocated, so that none of the Easement Premises (as defined in the Snow Stack Easement) is located on the Demised Premises within one year of the Effective Date, then either party may terminate this Lease.

1.6 Development Agreement. In the event of any inconsistency between the Development Agreement and this Lease, this Lease shall govern. Nothing in the Development Agreement shall affect the rights and obligations of Tenant under this Lease after this Lease has been assigned to a Homeowner's Association.

## ARTICLE 2. PREMISES

Subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, Landlord hereby demises and leases to Tenant, and Tenant hereby takes and leases from Landlord, the Demised Premises, to have and to hold during the Term.

## ARTICLE 3. TERM

3.1 Term. The "Term" of this Lease shall begin on the Effective Date and extend through the Development Period and after the Development Period, ninety-nine (99) Lease Years past the Base Rent Commencement Date.

3.2 Extensions. No options to extend the Term are granted.

3.3 Holding Over. If Tenant remains in possession of the Demised Premises after the expiration of the Term, it shall be deemed to be occupying the Demised Premises as a tenant from month to month at 125% of the Base Rent payable during the last month of the Demised Term (150% of the Base Rent payable during the last month of the Demised Term if Tenant holds over for more than one (1) month after receipt of written demand from Landlord that Tenant vacate the Demised Premises) and 100% of the Additional Rent payable hereunder during the hold over period (prorated and paid on a monthly basis), subject to all conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy.

## ARTICLE 4. RENT

4.1 Base Rent. Commencing on the Base Rent Commencement Date, and on the first day of every month thereafter throughout the Term, Tenant shall pay to Landlord, without any prior demand therefor and, except as may be otherwise expressly set forth herein, without offset or abatement, one twelfth (1/12<sup>th</sup>) of the Base Rent. Notwithstanding the foregoing, if the Base Rent Commencement Date is not the first day of a calendar month, Tenant shall, on the first day of the calendar month immediately following the Base Rent Commencement Date, pay Landlord with the first full monthly payment an amount equal to the pro rata portion of Base Rent for the number of days from the Base Rent Commencement Date to the end of such fractional month. Base Rent for any fractional month at the end of the Term shall also be prorated. Prorations for any fractional month shall be made on the basis of a 365-day year and the actual number of days

in such fractional month.

4.2 Base Rent Adjustments. The Base Rent Per Sold Unit shall be increased annually, but not decreased, during the Demised Term. On each Date of Increase, Base Rent Per Sold Unit shall be determined by multiplying the Base Rent per Unit in effect immediately prior to the Date of Increase by the CPI Adjustment.

4.3 Payments. Rent shall be paid in United States currency by check, direct deposit, or such other method as Landlord may reasonably prescribe. Rent checks shall be made payable to Landlord and mailed to its address on page 1 hereof, or elsewhere as designated by Landlord from time to time in a written notice delivered to Tenant at least one (1) month prior to the effective date of such address change. In the event that Landlord prescribes another method of payment, payment shall be made in the manner set forth in Landlord's notice delivered to Tenant at least one (1) month prior to the effective date of such change.

4.4 Additional Rent. All Additional Rent, whether or not denominated herein as rent or as additional rent, shall be considered to be rent for all purposes under this Lease. Additional Rent shall begin to accrue on the Additional Rent Commencement Date.

#### ARTICLE 5. BASE RENT COMMENCEMENT DATE

5.1 Base Rent Commencement Date. The Base Rent Commencement Date shall be the date on which the first Unit is sold by Tenant.

5.2 Acceptance of the Demised Premises AS IS. Tenant accepts the Demised Premises in their current As Is condition. Tenant shall be responsible at its sole cost and expense to bring in utilities and perform all site work for the construction of the Buildings on the Demised Premises.

#### 5.3 Tenant Construction.

(a) Tenant has submitted a sketch plan to the Town for the approximately twenty-nine (29) approximately 350 square foot to 525 square foot residential Units and one approximately 350 square foot office Unit to be constructed on the Demised Premises as set forth on the Site Plan. The parties acknowledge and agree that the Site Plan may change pursuant to the entitlement process with the Town. If the Town has not approved a Major Site Plan acceptable to Tenant within twelve (12) months after the execution of this Ground Lease, then either party may terminate this Ground Lease. If the Town approves the Major Site Plan, Tenant shall construct the Units. The design for the Units shall be in accordance with the Town's approval. Tenant shall cause its general contractor to waive any mechanic lien rights as against Landlord's interest in the Demised Premises and indemnify Landlord for any mechanic liens that may be filed by its subcontractors or suppliers. Such waiver and indemnification shall be included in the contract between Tenant and its general contractor for the benefit of Landlord as a third-party beneficiary. Tenant shall be responsible for (1) obtaining any required licenses and permits issuable by applicable governmental authorities for the construction of the Units and (2) complying with all Laws concerning the cleanliness, safety and construction of the Demised Premises, including but not limited to the Americans with Disabilities Act and all regulations

thereunder as they may be amended from time to time.

(b) As part of the improvements Tenant must make, Tenant shall construct a detention pond adjacent to and west of the Demised Premises in the place labeled on the Site Plan as "Western Detention Pond" for water drainage from the Demised Premises. Subject to the Snow Stack Easement, Tenant shall have the use of such Western Detention Pond for water drainage from the Demised Premises.

(c) When the Units are sufficiently completed for Tenant to file a Condominium Declaration, Tenant shall subject the Units to a condominium regime based upon this Ground Lease as a common element (the condominium project being a leasehold condominium project) and assign this Ground Lease to the Homeowner's Association, subject to the rights of the owners of the Units. After such assignment, (i) Basecamp Residences LLC (which shall no longer be the tenant hereunder) shall continue to own all the Units subject to this Ground Lease and the Condominium Declaration; (ii) the Homeowner's Association shall be obligated to pay Base Rent and Additional Rent hereunder; and the Homeowner's Association shall be the tenant hereunder subject to the rights of the Unit Owners.

(d) Upon assignment of this Ground Lease to the Homeowner's Association, Basecamp Residences LLC shall be released of any further obligation under this Ground Lease except for payments due prior to the assignment of the Ground Lease.

## ARTICLE 6. CONSTRUCTION, MAINTENANCE AND EQUIPMENT

### 6.1 Ownership and Depreciation of Improvements and Fixtures.

(a) Fixtures and Equipment. Tenant shall own all Tenant's Furniture, Fixtures and Equipment to the exclusion of Landlord but subject to the rights of the Unit owners. Within ten (10) days following the expiration or earlier termination of this Lease, Tenant shall have the right to remove all of Tenant's Furniture, Fixtures and Equipment from the Demised Premises. Tenant shall repair any damage to the Demised Premises (other than minor, cosmetic damage) caused by such removal.

(b) Improvements. Subject to the rights of the Unit owners, improvements constructed or installed in the Demised Premises which are constructed and funded by Tenant (and not reimbursed by Landlord) are the property of Tenant for and during the Term, but upon the termination of this Lease shall vest in Landlord. Accordingly, in recognition of which party bears the economic burden of the improvements constructed on the Demised Premises, it is agreed and understood that, during the Term, Tenant retains the right to the depreciation deductions of all such alterations, additions, and improvements made at Tenant's expense and not reimbursed by Landlord.

6.2 Demised Premises Maintenance. Tenant, at its sole cost and expense, shall keep the Demised Premises, including the foundation, floor, roof, exterior walls, of the other common elements of the condominium project in good condition and repair throughout the Term, reasonable wear and tear and the effects of time excepted. However, Landlord expressly agrees that Tenant shall have no obligation to replace the HVAC system (or any other mechanical

equipment located in or serving the Units) serving the Units upon the expiration or any earlier termination of this Lease or to otherwise deliver the HVAC system (or any other mechanical equipment located in or serving the Units) in working order.

6.3 Alterations by Tenant. Any alterations and additions to the Demised Premises that Tenant may deem necessary during the Term may be made by Tenant, at Tenant's sole cost and expense except that after the original construction of the Buildings, Tenant shall not have the right to (i) expand the area of any Building or construct additional mezzanine areas within any Building or (ii) change the exterior façade without Landlord's consent which may be denied or conditioned in Landlord's absolute discretion. In addition, any alteration construction shall be subject to the same provisions as the original construction as provided in Section 5.3.

6.4 Entry by Landlord. Subject to the rights of Unit owners, Landlord may enter the Demised Premises during normal business hours to inspect same and, beginning six (6) months before the end of the Term, to exhibit same to prospective tenants, so long any such entry does not interfere with occupants' business activities.

6.5 Signage.

(a) Permanent Signage. Tenant's signage shall be subject to Landlord's approval, such approval not to be unreasonably withheld, conditioned or delayed.

(b) Temporary Signage. Subject to applicable Laws and Town Approval, Tenant may install temporary advertising signs in the Demised Premises on the exterior of the Buildings and shall remove them within a reasonable time after sale of the Units.

#### ARTICLE 7. USE

Except for one office Unit, the Demised Premises shall only be used for residential purposes.

#### ARTICLE 8. UTILITY SERVICES

Throughout the Term, Tenant (or persons claiming through Tenant, such as Unit owners shall directly contract with utility providers for the supply of utility services to the Demised Premises.

#### ARTICLE 9. INSURANCE, LIABILITY AND TAXES

9.1 Insurance.

(a) Liability Insurance. From and after the date of this Lease, Tenant shall maintain a policy of commercial general liability insurance on the Demised Premises and all buildings and improvements located thereon, protecting Landlord and Tenant against loss, cost or expense by reason of injury to or death of persons or damage to or destruction of property by reason of the use and occupancy of the Demised Premises by Tenant and Tenant's Invitees. Such insurance shall have limits of at least \$2,000,000.00 for each occurrence, bodily injury and

property damage combined, subject to Tenant's deductible.

(b) Property Insurance - Improvements. From and after the date of this Lease, Tenant shall maintain Causes of Loss – Special Form property damage insurance on the Buildings and all leasehold improvements constructed by Tenant within the Buildings and on Tenant's Furniture, Fixtures and Equipment in amounts equal to one hundred percent (100%) of their full replacement cost, subject to Tenant's deductible. In the event the property damage insurance known as of the date of this Lease as "Causes of Loss – Special Form" ceases to exist in the future, Tenant shall maintain that form of property damage insurance that provides the nearest coverage as the "Causes of Loss – Special Form" property damage insurance does as of the date of this Lease.

(c) Certificates of Insurance. All insurance required to be carried by Tenant pursuant to this Lease shall be carried with reputable companies licensed to do business in the State in which the Demised Premises are located and having an A.M. Best Rating of not less than A:XI. Tenant shall, upon written request by the Landlord, furnish a certificate from its insurance carrier certifying that the insurance coverage that Tenant is required to maintain is in force. Tenant may satisfy the requirement to provide a certificate of insurance with respect to Tenant's commercial general liability insurance and/or property insurance by providing Landlord with a web site link to a Memorandum of Insurance (located on the website of the issuer of Tenant's commercial general liability insurance and/or property insurance) evidencing that the commercial general liability insurance and/or property insurance coverage that Tenant is required to maintain is in force.

(d) Blanket Policies. The insurance required to be carried pursuant to this Lease may be carried under policies of blanket insurance that may cover other liabilities and locations; provided, however, in all other respects each of such policies shall comply with the provisions of this Section 9.1.

## 9.2 Indemnification.

(a) TENANT. TENANT COVENANTS TO DEFEND AND SAVE LANDLORD HARMLESS FROM ANY AND ALL LOSSES WHICH MAY OCCUR WITH RESPECT TO ANY PERSON OR PERSONS, CORPORATION, PROPERTY OR CHATTELS ON THE DEMISED PREMISES RESULTING FROM ACTS OR OMISSIONS OF TENANT OR ANY PERSONS CLAIMING ANY RIGHT TO THE DEMISED PREMISES THROUGH TENANT, EXCEPT

(I) TO THE EXTENT SUCH LOSS RESULTS FROM A DEFAULT BY LANDLORD UNDER THIS LEASE OR THE WILLFUL MISCONDUCT OR NEGLIGENT ACT OR OMISSION OF LANDLORD, ITS SUBTENANTS, AGENTS, EMPLOYEES, INDEPENDENT CONTRACTORS OR INVITEES, OR

(II) TO THE EXTENT OF ANY INSURANCE PROCEEDS RECEIVED (OR RECEIVABLE) BY LANDLORD OR PAYABLE UNDER LANDLORD'S INSURANCE AS A RESULT OF LANDLORD'S CONTRIBUTORY

CULPABILITY, OR

(III) TO THE EXTENT THE LOSS OR DAMAGE IS TO PROPERTY AND LANDLORD HAS WAIVED ITS RIGHT TO RECOVER THE COST OF SUCH LOSS OR DAMAGE TO PROPERTY FROM TENANT BY VIRTUE OF LANDLORD'S WAIVER OF CLAIMS UNDER SECTION 9.3(a) BELOW.

WITH RESPECT TO ANY LOSS FROM WHICH LANDLORD CLAIMS TENANT IS REQUIRED TO HOLD LANDLORD HARMLESS, LANDLORD SHALL PROMPTLY NOTIFY TENANT OF (A) ANY ACTS OR OMISSIONS CAUSING SUCH LOSS, AND (B) ANY PROCEEDINGS INITIATED IN CONNECTION WITH SUCH ACTS OR OMISSIONS. TENANT'S OBLIGATIONS UNDER THIS SECTION SHALL BE REDUCED TO THE EXTENT THAT TENANT IS NOT PROMPTLY NOTIFIED AS AFORESAID AND SUCH FAILURE PREJUDICES TENANT.

(b) LANDLORD. LANDLORD COVENANTS TO DEFEND AND SAVE TENANT HARMLESS FROM ANY AND ALL LOSSES WHICH MAY OCCUR WITH RESPECT TO ANY PERSON OR PERSONS, CORPORATION, PROPERTY OR CHATTELS ON THE DEMISED PREMISES RESULTING FROM LANDLORD'S ACTS OR OMISSIONS, EXCEPT

(I) TO THE EXTENT SUCH LOSS RESULTS FROM A DEFAULT BY TENANT UNDER THIS LEASE OR THE WILLFUL MISCONDUCT OR NEGLIGENT ACT OR OMISSION OF TENANT, ITS SUBTENANTS AGENTS, EMPLOYEES, INDEPENDENT CONTRACTORS OR INVITEES, OR

(II) TO THE EXTENT OF ANY INSURANCE PROCEEDS RECEIVED (OR RECEIVABLE) BY TENANT OR PAYABLE UNDER TENANT'S INSURANCE (OR WHICH WOULD HAVE BEEN RECEIVED OR RECEIVABLE HAD TENANT MAINTAINED THE INSURANCE REQUIRED TO BE CARRIED BY TENANT UNDER THIS LEASE) AS A RESULT OF TENANT'S CONTRIBUTORY CULPABILITY, OR

(III) TO THE EXTENT THE LOSS OR DAMAGE IS TO PROPERTY AND TENANT HAS WAIVED ITS RIGHT TO RECOVER THE COST OF SUCH LOSS OR DAMAGE TO PROPERTY FROM LANDLORD BY VIRTUE OF TENANT'S WAIVER OF CLAIMS UNDER SECTION 9.3(b) BELOW.

WITH RESPECT TO ANY LOSS FROM WHICH TENANT CLAIMS LANDLORD IS REQUIRED TO HOLD TENANT HARMLESS, TENANT SHALL PROMPTLY NOTIFY LANDLORD OF (A) ANY ACTS OR OMISSIONS CAUSING SUCH LOSS, AND (B) ANY PROCEEDINGS INITIATED IN CONNECTION WITH SUCH ACTS OR OMISSIONS. LANDLORD'S OBLIGATIONS UNDER THIS SECTION SHALL BE REDUCED TO THE EXTENT THAT LANDLORD IS NOT PROMPTLY NOTIFIED AS AFORESAID AND SUCH FAILURE PREJUDICES LANDLORD.

9.3 Mutual Waiver of Claims and Subrogation.

(a) WAIVER OF CLAIMS - LANDLORD. NOTWITHSTANDING ANYTHING IN THIS LEASE TO THE CONTRARY, LANDLORD HEREBY WAIVES ANY CLAIM IT MAY HAVE AGAINST TENANT, ITS AGENTS OR EMPLOYEES FOR LOSS OR DAMAGE TO PROPERTY TO THE EXTENT (I) SUCH LOSS OR DAMAGE TO PROPERTY RESULTED FROM A CAUSE OF LOSS THAT IS COVERED BY THE PROPERTY DAMAGE INSURANCE CARRIED BY LANDLORD AND (II) THE AMOUNT OF SUCH LOSS OR DAMAGE TO PROPERTY EXCEEDS THE LESSER OF (A) THE DEDUCTIBLE AMOUNT UNDER LANDLORD'S PROPERTY DAMAGE INSURANCE POLICY, AND (B) FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00).

(b) WAIVER OF CLAIMS - TENANT. NOTWITHSTANDING ANYTHING IN THIS LEASE TO THE CONTRARY, TENANT HEREBY WAIVES ANY CLAIM IT MAY HAVE AGAINST LANDLORD, ITS AGENTS OR EMPLOYEES FOR LOSS OR DAMAGE TO PROPERTY TO THE EXTENT (I) SUCH LOSS OR DAMAGE TO PROPERTY RESULTED FROM A CAUSE OF LOSS THAT IS COVERED BY THE PROPERTY DAMAGE INSURANCE CARRIED BY TENANT (OR A CAUSE OF LOSS WHICH WOULD HAVE BEEN COVERED HAD TENANT MAINTAINED THE PROPERTY DAMAGE INSURANCE REQUIRED UNDER SECTION 9.1(b) ABOVE, AND (II) THE AMOUNT OF SUCH LOSS OR DAMAGE TO PROPERTY EXCEEDS THE LESSER OF (A) THE DEDUCTIBLE AMOUNT UNDER TENANT'S PROPERTY DAMAGE INSURANCE POLICY (WHICH AMOUNT SHALL BE DEEMED TO BE FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00).

(c) Waiver of Subrogation. Landlord and Tenant shall cause each property damage insurance policy carried by either of them insuring the Demised Premises, the contents thereof, or all or part of the Development to provide that the insurer waives all rights of recovery by way of subrogation or otherwise against the other party hereto (and all of such other party's affiliates) in connection with any loss or damage which is covered by such policy or that such policy shall otherwise permit, and shall not be voided by the waivers provided above. Notwithstanding the foregoing, if a waiver of an insurer's right of subrogation is not permitted by the Laws of the state in which the Demised Premises is located, the parties shall only waive their claims and their insurers' rights of subrogation to the extent allowed by Law.

9.4 Real Estate Taxes.

(a) Definition. As used herein, the term "Real Estate Taxes" shall mean all general, *ad valorem* real estate taxes, and assessments (general or special) for betterments and improvements that are levied or assessed on the Development by any lawful authority, including any substitution therefor, in whole or in part, due to a future change in the method of taxation. Real Estate Taxes shall be reduced by (i) any deferral, abatement, exemption, or other tax-lowering adjustment of Real Estate Taxes received by Landlord from the taxing authorities, and (ii) any amounts paid toward Real Estate Taxes by any third parties (excluding tenants) who may use all or any portion of the Development. For purposes of computing Tenant's pro rata share of Real Estate Taxes, Real Estate Taxes shall not include any: (1) income, excise, profits, estate, inheritance, succession, gift, transfer, franchise, capital, or other tax or assessment upon

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Landlord or upon the rentals payable under this Lease, except to the extent that such taxes are a substitution for the taxes listed in the first sentence of this Section 9.4(a); (2) taxes on rents, gross receipts or revenues of Landlord from the Demised Premises, except to the extent that such taxes are a substitution for the taxes listed in the first sentence of this Section 9.4(a); or (3) any fine, penalty, cost or interest for any tax or assessment, or part thereof, which Landlord or its lender failed to timely pay (except if same are caused by an Event of Default). All assessments imposed during the Demised Term which are permitted to be included within Real Estate Taxes hereunder shall, for the purposes of computing Tenant's pro rata share thereof, be deemed to have been paid in the maximum number of installments permitted by the applicable taxing authority).

(b) Tenant's Obligation. Tenant (or if the Demised Premises is converted to condominiums, members of the Tenant) shall pay all of the taxes assessed against its improvements, including the Buildings, and Tenant shall be obligated to pay Tenant's pro rata share of the Real Estate Taxes that accrue on the land portion of the Development during the Demised Term. As to the Real Estate Taxes on the land portion of the Development, Tenant shall pay the product of (A) the amount of Real Estate Taxes assessed against the land portion of the Development, multiplied by (B) a fraction, the numerator of which shall be the area of the Demised Premises and the denominator of which shall be the total area of the Development. Notwithstanding the foregoing, if, after conversion of the Units to condominiums, real estate taxes imposed on the Units cover the land portion of the Demised Premises designated as common elements, the Tenant shall have no obligation to reimburse Landlord for real estate taxes.

(c) Landlord's Obligation. Subject to reimbursement as provided herein from Tenant or reimbursement from other tenants of the Development and except for amounts billed directly to and paid by occupants of the Development, Landlord shall cause to be paid all Real Estate Taxes and the like as may be imposed or become a lien on any land portion of the Development. Landlord represents and warrants that, as of the date hereof, there are no special assessments that are proposed, pending, laid, levied, assessed, imposed or due on the Development.

(d) Timing.

(i) Payment of Real Estate Taxes and the like as required hereunder shall be deemed to be timely if made within the period in which payment is permitted without penalty (whether or not interest accrues on the unpaid balance). Landlord or Tenant shall, within one (1) month after written request from the other, provide satisfactory evidence of such payment. Landlord and Tenant may take the benefit of any Law allowing Real Estate Taxes to be paid in installments.

(ii) Tenant shall pay its obligations to Landlord for Real Estate Taxes to Landlord within one (1) month after delivery to Tenant by Landlord of the actual tax bill for which payment is being requested and a statement indicating Tenant's obligations hereunder for Real Estate Taxes reflected on such tax bill. However, if Landlord is required by the holder of any fee mortgage secured by the Development to escrow any amounts for Real Estate Taxes, then so long as such escrow shall be so required and all other tenants and occupants of the

Development are similarly required to make monthly payments to Landlord with respect to Real Estate Taxes, upon written notice from Landlord to Tenant, Tenant agrees that in addition to the monthly payment of Base Rent hereunder, Tenant shall pay to Landlord with such monthly Base Rent payment an amount equal to Tenant's obligations hereunder divided by twelve. Upon Landlord's receipt of the actual tax bills for the Development, Landlord will deliver a copy of same to Tenant, and thereupon there shall be adjustment between Landlord and Tenant with payment to or repayment by Landlord, as the case may require, to the end that Landlord shall receive from Tenant only Tenant's actual obligation hereunder for Real Estate Taxes.

(e) Proration; Reimbursement. Real Estate Taxes for which Tenant is responsible shall be prorated between Landlord and Tenant as of the Effective Date and the end of the Demised Term. For the calendar year in which the Demised Term ends, Real Estate Taxes shall be prorated on the basis of one hundred percent (100%) of the previous calendar year's Real Estate Taxes and shall be paid by Tenant prior to the end of the Demised Term. Upon final assessment of Real Estate Taxes for the year of termination, the tax proration will be adjusted to reflect the tax obligation of Tenant. If an assessment that is payable in periodic installments is levied on the Demised Premises, Tenant shall pay only those installments that are attributable to the Demised Term. If the Lease terminates prior to its normal expiration and Tenant has prepaid any Real Estate Taxes, Landlord shall reimburse Tenant, on demand, for the portion for which Tenant is not responsible hereunder.

(f) Right to Contest.

(i) Notices of Assessment/Valuation. Landlord shall provide Tenant with copies of all notices of assessment and/or valuation received by Landlord with respect to the Development within five (5) business days following Landlord's receipt of same. Landlord shall include with such copies of assessment and/or valuation a statement as to whether Landlord intends to contest the assessment or valuation, as applicable, but (as assessments are publicly available) failure to provide such notice or statement shall not be a default by Landlord or a violation of this Lease by Landlord.

(ii) Contest of Real Estate Taxes. At Tenant's request, Landlord shall contest the amount or validity of any assessment, valuation and/or Real Estate Taxes, failing which, Tenant shall have (as its sole remedy for such failure) the right to contest the assessment, valuation and/or Real Estate Taxes by appropriate proceedings conducted in good faith, whereupon Landlord shall cooperate with Tenant, execute any and all documents required in connection therewith and, if required by any governmental authority having jurisdiction, join with Tenant in the prosecution thereof. If, as a result of any contest or otherwise, any rebate or refund of Real Estate Taxes is received, Tenant shall be entitled to Tenant's pro rata share thereof (after reasonable and customary expenses incurred by Landlord and/or Tenant in connection with such contest are paid to the party which incurred such expense).

(iii) Liens. If any lien is filed against the Demised Premises or the Development on account of labor or materials furnished in connection with any construction, maintenance, repairs or alterations either Landlord or Tenant shall undertake, the party contracting for such work (the "Contracting Party") shall cause such lien to be released within one (1) month after actual notice of the filing thereof or shall furnish to the other party a bond or

other security reasonably satisfactory to the other, conditioned to indemnify the other against the foreclosure of such lien. The Contracting Party shall have the right, after notice to the other, to contest in good faith and with all due diligence any such lien and shall not be required to pay any claim secured by such lien; provided that (i) such lien would not impair the rights or be satisfied out of the interest of the other in the Demised Premises and/or the Development by reason of such delay, and (ii) the Contracting Party will at its expense defend the other and pay all costs reasonably incurred by the other relating to the contest if the other is joined in any suit pertaining thereto or if any such lien is placed upon the other's interest in the Demised Premises and/or the Development.

## ARTICLE 10. DEFAULT AND REMEDIES

### 10.1 Default by Tenant.

(a) Landlord's Remedies. If (i) default shall be made in the payment of any Base Rent or any Additional Rent or any installment thereof or in the payment of any other sum required to be paid by Tenant under this Lease, or if default shall be made in the observance or performance of any of the other agreements, covenants or conditions in this Lease which Tenant is required to observe and perform, (ii) Tenant shall fail to cure such default within the Applicable Grace Period (as defined in Section 10.3), and (iii) Tenant's failure to cure such default continues for more than ten (10) additional days after Landlord delivers to Tenant an Additional Notice of Tenant's default, Landlord may treat the occurrence of any one or more of the foregoing events as a breach of this Lease (an "Event of Default"), and thereupon at its option may, without any additional notice or demand of any kind to Tenant or any other person, have its rights and remedies at law or in equity, subject only to the limitations thereon set forth in Section 10.1(b) below.

(b) Limitations on Landlord's Remedies. Anything in Section 10.1(a) above to the contrary notwithstanding, Landlord's exercise of its rights and remedies at law or in equity upon the occurrence of an Event of Default shall be subject to the following limitations:

(i) No Acceleration of Rent. Landlord shall not be entitled to an acceleration of the Base Rent and/or any other rent due hereunder for the balance of the Demised Term unless there is offset against such accelerated amount the fair market rental value of the Demised Premises for the same period.

(ii) Duty to Mitigate. Landlord shall exercise commercially reasonable efforts to mitigate its damages resulting from Tenant's default; provided, however, so long as Landlord has exercised commercially reasonable efforts to mitigate its damages, Landlord shall not be liable to Tenant for, nor shall Tenant's liability to Landlord be diminished by, Landlord's inability to relet the Demised Premises and further provided, however, that Landlord shall not be required to incur redecorating costs in any effort to mitigate its damages. Expenditures made by Landlord in reasonable attempts to mitigate its damages shall be part of the damages awarded to Landlord.

(c) CCIOA Limitations. When the Demised Premises are converted to condominiums and this Lease is assigned (subject to the rights of Unit owners) to a

Homeowner's Association, then so long as Landlord's termination remedy is limited by Colorado Revised Statutes Section 38-33.3-206(2), instead of terminating this Lease as to the entire Homeowner's Association (and accordingly, all Unit owners), Landlord may terminate the Lease with respect to a Unit owner that fails to make timely payment of a Unit owner's share of the Rent to the Homeowner's Association or fails to otherwise comply with covenants herein (an "Association Defaulting Owner"). In connection with such remedy:

(i) Effect of Termination upon Unit. If this Lease is terminated by Landlord as to an Association Defaulting Owner pursuant to this subsection (c), then the Association Defaulting Owner's Unit shall continue to exist (i.e., the ground leasehold interest of the Association Defaulting Owner does not merge with the Landlord's fee simple interest) but all rights of such Association Defaulting Owner shall revert to Landlord.

(ii) Notice to Mortgagees and Association. Landlord does not subordinate its interests herein to holders of deeds of trust on the Units but at least thirty (30) days prior to a termination with respect to an Association Defaulting Owner, Landlord shall give the Homeowner's Association and any holder of a deed of trust on the Association Defaulting Owner's Unit, notice of the default and an opportunity to cure the default prior to the termination.

(iii) Liability of Association. The Homeowner's Association (as successor to Tenant) shall in all events, be liable to Landlord for the Rent and compliance with all covenants hereunder by Unit owners, and Landlord shall be entitled to a judgment for damages against the Homeowner's Association for the failure to pay Rent or otherwise comply with the provisions of this Lease, without respect as to whether or not the Unit owners fail to pay their respective shares of the Rent.

(iv) Association Obligation to Collect Assessments. The Homeowner's Association shall use commercially reasonable efforts to require each Unit owner to pay its pro rata share of the Rent hereunder in the shares specified in the Condominium Declaration, and shall enforce its rights under the Condominium Declaration in the event a Unit owner fails to do so, including but not limited to foreclosure of its lien against an Association Defaulting Owner's Unit pursuant to the procedure specified in Condominium Declaration.

(v) Association's Books and Records. The Homeowner's Association shall, upon request of Landlord, allow Landlord to inspect its books and records with regard to assessments to Unit owners, payment of assessments, and all correspondence and other documents related to the Homeowner's Association's efforts to require Unit owners to pay their respective shares of the Rents and otherwise comply with the provisions of this Lease.

(d) No Other Limitations. Subject to the limitations set forth in Section 10.1(b) and (c) above, nothing in this Section 10.1 shall be deemed to limit any additional remedies for a Tenant default set forth elsewhere in this Lease or provided by law or equity, nor shall any such additional remedies be deemed to limit any remedies for a Tenant default set forth in this Section 10.1.

## 10.2 Default by Landlord.

(a) Tenant's Remedies. If (i) Landlord shall fail to perform any of its obligations as required by this Lease or if Landlord fails to pay to Tenant any amounts owed by Landlord to Tenant, (ii) Landlord shall fail to cure such failure within the Applicable Grace Period (or such other applicable grace period expressly provided herein), and (iii) Landlord's failure to cure such default continues for more than ten (10) additional days after Tenant delivers to Landlord an Additional Notice of Landlord's default, then Tenant shall have its rights and remedies at law or in equity and Tenant may also elect to: (A) take such steps as may be necessary to cure Landlord's default, in which event Tenant shall be entitled to recover from Landlord all amounts expended by Tenant for said purposes, together with attorneys' fees and interest thereon from the date expended by Tenant until the date paid at the Interest Rate, (B) offset any amounts owing to Tenant (including but not limited to any costs or expenses incurred by Tenant as described in the preceding clause (A) which are not disputed by Landlord or if disputed by Landlord, after Tenant has obtained a judgment against Landlord for such amount which have not been paid as and when due (and with respect to amounts pursuant to the preceding clause (A), such amounts shall be deemed to be due thirty (30) days after demand therefore by Tenant to Landlord) against Rent, and/or (C) terminate this Lease; provided, however, that Tenant shall not exercise its right to terminate this Lease until (a) Tenant has given written notice of Landlord's default to any mortgagee of Landlord of whom Tenant has been notified in writing at the last address of such mortgagee furnished to Tenant in writing, and (b) such mortgagee has had a reasonable period of time following such notice (but in no event in excess of two (2) months) to remedy such default.

(b) Limitations on Tenant's Remedies. Anything in Section 10.2(a) above to the contrary notwithstanding, Tenant's exercise of its rights and remedies at law or in equity upon the occurrence of a Landlord default shall be subject to the following limitations:

(i) Condition Precedent. If the Demised Premises are converted to condominiums and this Lease is assigned to a Homeowner's Association, then Tenant shall prior to giving any Additional Notice or initiating any legal proceedings against the Landlord, have an affirmative vote of Unit owners owning at least 66.66% of the space in the Buildings affirming the following: a) Landlord has failed to perform a specifically set forth material obligation or make a material payment; b) that the matter has not been cured within the Applicable Grace Period; c) the Additional Notice is warranted; and d) that the Tenant should pursue its rights and remedies at law or equity.

(ii) Duty to Mitigate. Tenant shall exercise commercially reasonable efforts to mitigate its damages resulting from Landlord's default. Expenditures made by Tenant in reasonable attempts to mitigate its damages shall be part of the damages awarded to Tenant.

(iii) No Consequential Damages. In no event shall Landlord be liable to Tenant for any indirect or consequential damages.

(iv) Limitation of Landlord Liability. If Tenant obtains a money judgment against Landlord or its successors or assigns under any provision of or with respect to this Lease or on account of any matter, condition or circumstances arising out of the relationship of the

parties under this Lease, Tenant's occupancy of the Demised Premises or Landlord's ownership of the Demised Premises and/or Development, the execution of such judgment shall be limited only to Landlord's interest in the Development, including the rents, profits, income or proceeds therefrom, and not out of any other assets of Landlord or its members, partners, shareholders, heirs, successors or assigns. In such event, Landlord shall be entitled to have any such judgment so qualified as to constitute a lien only on the Development, including the rents, profits, income or proceeds therefrom, subject to any liens antedating such judgment. The foregoing exculpation shall not be applicable in the event of fraud or misappropriation of payment made by Tenant to Landlord. Further, the foregoing shall not be deemed to limit Tenant's right to obtain injunctive relief including, without limitation, specific performance or to avail itself of any other right or remedy which may be available to Tenant by law or in equity, or under the terms of this Lease.

(c) No Other Limitations. Subject to the limitations set forth in Section 10.2(b) above, nothing in this Section 10.2 shall be deemed to limit any additional remedies for a Landlord default set forth elsewhere in this Lease, nor shall any such additional remedies be deemed to limit any remedies for a Landlord default set forth in this Section 10.2.

10.3 Applicable Grace Period. As used in this Lease, the term "Applicable Grace Period" shall be one of the following time periods:

(a) for failure of either party to perform any covenant to pay money, ten (10) days after the non-performing party's receipt of notice from the other party specifying such non-performance or breach; and

(b) for failure to perform any other obligation under this Lease, one (1) month after the non-performing party's receipt of notice specifying such non-performance; provided, however, failure to perform any such obligation which may not reasonably be cured within one (1) month shall not be considered a default if the non-performing party, within said one (1) month period, institutes efforts to cure said non-performance and thereafter diligently and in good faith prosecutes said efforts to completion.

10.4 Attorneys' Fees. Should any litigation arising out of or related to this Lease, be commenced between the parties to this Lease, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorneys' fees actually incurred, which shall be determined by the court in such litigation, or in a separate action brought for that purpose.

10.5 Interest. Except where a different rate of interest is expressly provided for elsewhere in this Lease, whenever any interest is payable by Tenant to Landlord or Landlord to Tenant under this Lease, such interest shall be paid at the Interest Rate. All monetary obligations owed by Tenant to Landlord or Landlord to Tenant shall bear interest at the Interest Rate (except where a different rate of interest is expressly provided for elsewhere in this Lease) from the date due until paid. The payment of interest on such amounts shall not excuse or cure any default by Landlord or Tenant under this Lease.

10.6 Late Charge. Landlord and Tenant acknowledge that the late payment by Tenant or Landlord (the "Obligated Party") to the other (the "Recipient Party") of any sums due under

this Lease will cause the Recipient Party to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impracticable to fix. Therefore, if the Obligated Party fails for any reason to pay any Rent or other sum due from the Obligated Party to the Recipient Party within ten (10) days of the due date under this Lease, then in addition to interest on the unpaid amount at the Interest Rate as provided in Section 10.5 above, the Obligated Party shall pay to the Recipient Party an amount (the "Late Charge") equal to the greater of (a) \$250.00, and (b) five percent (5%) of the overdue amount as a late charge. The Recipient Party's acceptance of any late charge or interest shall not constitute a waiver of the Obligated Party's default with respect to the overdue amount or prevent the Recipient Party from exercising any of the other rights and remedies available to the Recipient Party under this Lease, at law or in equity.

## ARTICLE 11. CASUALTY DAMAGE

### 11.1 Obligation to Restore.

(a) If the whole or any part of the Demised Premises is damaged or destroyed from and after the date of this Lease through and including the Term by any cause whatsoever, then, except as otherwise provided in Section 11.1(c) below, Tenant, at its sole cost and expense, shall repair, restore or rebuild the Buildings and improvements constructed by Tenant in the Demised Premises to substantially the condition they were in immediately prior to such damage or destruction ("Tenant's Restoration").

(b) All Tenant's Restoration shall be promptly commenced and performed with due diligence in a good and workmanlike manner and in accordance with applicable Law and plans and specifications for such work reasonably approved by Landlord and Tenant.

(c) Notwithstanding the foregoing, if such damage or destruction to the Demised Premises shall occur during the last three (3) years of the Term, and the cost of Tenant's Restoration equals or exceeds twenty-five percent (25%) of the total replacement cost of the improvements constructed by Tenant within the Demised Premises from time to time (including any additions, replacements or renovations thereto), then this Lease may be terminated at Tenant's election, provided that Tenant gives Landlord written notice of such election within two (2) months after the occurrence of such damage or destruction.

11.2 Disposition of Insurance Proceeds on Termination. Upon termination as aforesaid, this Lease and the term hereof shall cease and come to an end, any unearned rent or other charges paid in advance by Tenant shall be refunded to Tenant, Landlord shall be entitled to receive any and all insurance proceeds paid with respect to the property damage insurance maintained by Tenant and all insurance proceeds paid with respect to the property damage insurance maintained by Landlord, and the parties shall be released hereunder, each to the other, from all liability and obligations thereafter arising.

11.3 Disbursement of Insurance Proceeds. In the event of damage or destruction and this Lease is not terminated pursuant Section 11.1(c) above, all proceeds of Tenant's property insurance collected as a result of any casualty damage to the Demised Premises shall be held by the insurance carrier or, at either Landlord or Tenant's election exercised by notice to such

insurance carrier and to the other party, by an independent insurance trustee who is mutually acceptable to Landlord and Tenant, and such proceeds shall be disbursed by such insurance company or escrow agent, as the case may be, in progress payments for the restoration of the Buildings and other improvements constructed by Tenant. Notwithstanding the foregoing, any such proceeds of Tenant's insurance in an amount less than One Hundred Thousand Dollars (\$100,000.00) shall be disbursed directly to Tenant for the purpose of making its repairs. Further, proceeds payable for loss of or damage to Tenant's personal property, furniture, trade fixtures, machinery and equipment shall be payable directly to Tenant, and neither Landlord nor any Landlord lender shall have any claim therefor. Except as provided in Section 11.2 above, the proceeds of the property insurance policy relating to the Buildings' shell and the leasehold improvements maintained by Tenant, shall be used solely for restoration and rebuilding of the Demised Premises in accordance with the terms of this Lease.

## ARTICLE 12. EMINENT DOMAIN

12.1 The Taking. If Landlord receives notice of the intention of any authority to appropriate, take or condemn any portion of the Demised Premises for public or quasi-public use under any right of eminent domain, condemnation or other Law (collectively, "Taking"), Landlord shall promptly notify Tenant thereof. In the event of any Taking or sale under the threat or proposal of a Taking with respect to the Demised Premises, then any award, settlement or proceeds shall be distributed to the parties in proportion to the value of their respective interests in the Demised Premises. In the event of such Taking or like proceeding, the parties shall represent their own interests and shall present and prosecute their own claims for damages insofar as possible. If the parties are not permitted to proceed as separate parties, they shall jointly select counsel to present and prosecute their claim, and all costs thereof shall be paid by the parties in proportion to the amount of the award, settlement or sale proceeds that each receives. In the event of any Taking or sale under threat or proposal of a Taking with respect to any other portion of the Development (other than the Demised Premises), then any award, settlement or proceeds shall be distributed solely to Landlord.

12.2 Settlement. Any apportionment of the final award or settlement of damages entered into by Landlord and Tenant with the authority over a Taking shall be binding upon the parties. If no such apportionment is made, then the parties shall agree on the value of their respective interests and distribution shall be made in accordance with such agreement.

12.3 Tenant's Option. Tenant shall have the right to receive an award or settlement of damages as aforesaid and the option to terminate this Lease upon three (3) months' notice to Landlord if such Taking or sale results in loss of all of the Demised Premises or an exterior wall of a Building. Any such Taking is referred to herein as a "Taking Impacting Tenant". The foregoing option to terminate may only be exercised within three months following the Taking. If a Taking Impacting Tenant occurs and if Tenant shall exercise its option to terminate this Lease, then this Lease and Tenant's obligation to pay rent and other charges shall terminate as of the later of the date set forth in Tenant's termination notice or the date of such taking, condemnation or sale (with the unearned portion of the rent and other charges theretofore paid being returned to Tenant), except that such action shall not be deemed to terminate this Lease for purposes of Tenant's prosecuting and receiving an award or settlement for damages.

12.4 Partial Taking. If any such Taking is not a Taking Impacting Tenant or if Tenant does not elect to terminate this Lease in accordance with Section 12.3 hereof, this Lease shall continue and Tenant, at its sole cost and expense, shall repair, restore or rebuild the Buildings and the leasehold improvements constructed by Tenant. If, for any reason, Tenant shall fail to perform its foregoing restoration, the Landlord shall have the right to terminate this Lease without further obligation. Base Rent shall be abated or equitably reduced during any period in which residential occupation of the Demised Premises are ceased or partially ceased for restoration and thereafter equitably reduced based on any reduction in the ground floor area of the Demised Premises as a result of such Taking, and any unearned rent and other charges theretofore paid shall be returned to Tenant.

12.5 Temporary Taking. If the period of any Taking Impacting Tenant shall be less than six (6) months, this Lease shall continue in full force and effect, the rent and other charges shall not abate, and all awards for damages pertaining to the Demised Premises (as opposed to the remainder of the Development) shall belong solely to Tenant.

### ARTICLE 13. ASSIGNMENT AND SUBLETTING

13.1 Assignment by Tenant. Tenant shall be entitled to assign this Lease to a Homeowner's Association without the prior written consent of Landlord. Any other assignment of the Lease shall require the written consent of Landlord, not to be unreasonably withheld.

#### 13.2 Assignment by Landlord.

(a) Landlord shall have the right to sell (or otherwise transfer title to) all or any portion of the Development without the consent of Tenant but shall give or cause the transferee to give Tenant prompt written notice of any such sale or transfer, including the identity of the transferee and any change in the address for giving notices or paying rent hereunder.

(b) In the event Landlord sells (or otherwise transfers title to) the Development to another party, then in connection with such sale or other transfer of title, Landlord shall be entitled to assign its interest in this Lease to the party acquiring title to the Development. In the event of a transfer and assignment by Landlord of its interest in this Lease to a person or other entity expressly assuming Landlord's obligations under this Lease, Landlord shall thereby be released from any liability hereunder which thereafter accrues, and Tenant agrees to look solely to such successor in interest of Landlord for performance of such subsequently accruing obligations. Any security given by Tenant to Landlord to secure performance of Tenant's obligation hereunder may be assigned and transferred by Landlord to such successor in interest of Landlord, and upon acknowledgment by such successor of receipt of such security and its express assumption of the obligation to account to Tenant for such security in accordance with the terms of this Lease, Landlord shall thereby be discharged of any subsequent obligation relating thereto.

13.3 Rights of Leasehold Mortgagee. Tenant may mortgage its interest in the Lease but only with the written consent of Landlord, not to be unreasonably withheld. In that event the leasehold mortgagee shall have the following rights:

(a) Notice of Default. Landlord, when giving notice to Tenant in respect of any default, shall also give a copy of such notice to any mortgagee of Tenant of whom Landlord has been notified in writing at the last address of such mortgagee furnished to Landlord in writing, and no notice of default shall be effective until a copy thereof is so given to such mortgagee.

(b) Right to Cure. In the event that Tenant fails to cure a default within the Applicable Cure Period, any leasehold mortgagee shall have an additional cure period after the expiration of Tenant's Applicable Cure Period to cure such default. The length of such additional cure period shall equal the number of days in Tenant's Applicable Cure Period.

(c) Foreclosure. If any mortgagee of Tenant's leasehold interest succeeds to Tenant's position through foreclosure, an assignment in lieu of foreclosure, or other mechanism, then provided such mortgagee cures all then outstanding defaults by Tenant under this Lease, Landlord shall not object to such mortgagee taking Tenant's position as tenant under this Lease if the mortgagee assumes all of the Tenant's obligations under this Lease, by a written document reasonably acceptable to Landlord. A leasehold mortgagee shall not be liable for performance of Tenant's obligations under this Lease unless and until the leasehold mortgagee succeeds to Tenant's position through foreclosure, or an assignment in lieu of foreclosure, or other mechanism, and, if the leasehold mortgagee assigns this Lease to a third party, any such liability shall terminate at the time of such assignment as to obligations accruing after the leasehold mortgagee assigns this Lease to a third party.

(d) Lender Consent to Termination. This Lease may not be cancelled or otherwise terminated by agreement unless the leasehold mortgagee has expressly consented to the cancellation or termination and any cancellation or termination purported to have been effected without that consent is voidable by the leasehold mortgagee's interests.

(e) Non-merger. Notwithstanding any other provision of this Lease, any conveyance uniting the interests of the parties to this Lease will not, without the written consent of the leasehold mortgagee, merge the interests so as to cause a collapse of this Lease as to the leasehold mortgagee's interests.

(f) Tenant Bankruptcy. The bankruptcy of Tenant is not grounds for termination of the Lease so long as there is no default beyond Applicable Cure Periods (including the additional cure period provided above for the benefit of the leasehold mortgagee). If this Lease is rejected in connection with a bankruptcy proceeding by Tenant, or a trustee or similar party to such proceeding on behalf of a Tenant, such rejection shall be deemed an assignment by Tenant to the leasehold mortgagee of all of Tenant's right, title, and interest in and to the Demised Premises and this Lease and the Lease shall not terminate. In connection therewith, the leasehold mortgagee shall have all of the right, title and interest of Tenant as if such bankruptcy proceeding had not occurred, unless the leasehold mortgagee shall reject such deemed assignment by notice in writing to Landlord within thirty (30) days following the

bankruptcy-related rejection. If any court of competent jurisdiction shall determine that, notwithstanding the terms of the preceding sentences, this Lease shall have been terminated as a result of such rejection, Landlord shall, on the leasehold mortgagee's written election within thirty (30) days after such court's determination, promptly enter into a direct new lease with the leasehold mortgagee or its designee for the Demised Premises on the same terms and conditions as those contained in this Lease, it being the intention of the parties to preserve this Lease and the leasehold estate created by this Lease for the benefit of the leasehold mortgagee without interruption.

(g) Estoppel Certificates. From time to time at the request of a leasehold mortgagee or a prospective leasehold mortgagee, Landlord shall provide estoppel certificates confirming such facts and such terms and provisions of this Lease as the leasehold mortgagee or prospective leasehold mortgagee may reasonably request and containing such direct agreements between the Landlord and leasehold mortgagee consistent with this Section 13.3 as to notice, rights to cure and the like as may be reasonably acceptable to Landlord and the leasehold mortgagee.

(h) Additional Insured. The leasehold mortgagee shall be made an additional insured on any and all insurance policies required under the provisions of this Lease to be held by Tenant and any and all insurance policies in which Landlord is required to make Tenant an additional insured.

(i) Mortgages on Landlord's Interest. Notwithstanding any other provision in the Lease (including Section 14.1), no future mortgage or deed of trust upon Landlord's interest in the Demised Premises shall extend to Tenant's interest in the Lease.

(j) Conversion to Condominiums. In the event that the Demised Premises are converted to condominiums and this Lease is assigned to a Homeowner's Association the leasehold mortgage shall automatically be released as to the Homeowner's Association but shall automatically extend to each Unit and released as to each Unit upon a sale of such Unit and payment to the mortgagee of the partial release price set forth in the loan documents.

#### ARTICLE 14. SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT

14.1 Subordination. Tenant agrees that this Lease shall be subordinate to any mortgages or deeds of trust that are now, or may hereafter be placed upon the Demised Premises or the Buildings and to any and all advances made or to be made thereunder, and to the interest thereon and all renewals, replacements and extensions thereof, provided, that (a) subject to commercially reasonable provisions in a customary Subordination, Nondisturbance and Attornment Agreement ("SNDA"), no default by Landlord under any such deeds of trust, mortgages or other security instruments shall affect Tenant's rights under this Lease, so long as Tenant pays all monetary obligations and performs all material nonmonetary obligations imposed upon it hereunder, and (b) any mortgagee of a mortgage or holder of any other security instrument encumbering Landlord's interest in the Demised Premises shall execute a commercially reasonable SNDA. Within ten (10) days after written request by Landlord, Tenant shall execute any commercially reasonable documents which may be desirable to confirm subordination of the Lease. As to any deeds of trust or similar encumbrances granted by

Landlord after the date of this Lease, Landlord shall at the time of granting such encumbrance, cause to be delivered to Tenant a separate commercially reasonable SNDA for each such deed of trust or similar encumbrance affecting the Buildings and Demised Premises, duly executed by the holder thereof.

14.2 Attornment by Tenant. In the event any proceedings are brought for foreclosure or in the event of the exercise of the power of sale under any mortgage or deed of trust, Tenant shall (at the election of the purchaser or other party succeeding to the Landlord's rights) attorn to the purchaser or other party succeeding to the Landlord's rights upon any such foreclosure, sale, termination or eviction, and recognize such purchaser or other party succeeding to the Landlord's rights as Landlord under the Lease.

## ARTICLE 15. MISCELLANEOUS

### 15.1 Waivers.

(a) No waiver of any condition or covenant in this Lease by either party shall be effective unless it is in writing and signed by the party waiving its rights, nor shall any waiver of any condition or covenant in this Lease by either party be deemed to imply or constitute a future waiver of the same or any other condition or covenant of this Lease. Failure by either party to complain of any action, nonaction or default of the other party shall not constitute a waiver of any of Tenant's or Landlord's rights hereunder.

(b) LANDLORD HEREBY WAIVES ALL RIGHTS TO ANY LIENS (COMMON LAW AND STATUTORY) THAT COULD EXIST OR MAY BE DEEMED TO BE CREATED ON TENANT'S EQUIPMENT, TRADE FIXTURES AND INVENTORY, AND AGREES THAT LANDLORD SHALL HAVE NO RIGHTS TO ANY OF TENANT'S FURNITURE, FIXTURES, INVENTORY, EQUIPMENT OR PERSONAL PROPERTY EVEN IF TENANT IS IN DEFAULT HEREUNDER.

15.2 Notices. Unless expressly otherwise provided in this Lease, all notices required under this Lease to Landlord or Tenant shall be in writing and shall be addressed to the addresses and parties indicated in the preamble of this Lease on page 1 hereof or to any subsequent address or party which Landlord or Tenant may designate in writing delivered at least one (1) month in advance to the other party for such purpose. All notices shall be deemed to be properly served if delivered to the appropriate address and party by hand delivery, registered or certified mail (with postage prepaid and return receipt requested), or nationally recognized overnight courier. The date of delivery of a notice served in accordance with this Section shall be (a) the date of receipt or refusal of receipt if delivered by hand, (b) the date of receipt or refusal of receipt, whichever is earlier, if delivered by registered or certified mail (with postage prepaid and return receipt requested), and (c) one (1) business day after deposit with a nationally recognized overnight courier or the date of refusal of receipt, whichever is earlier, if delivered by a nationally recognized overnight courier.

15.3 Relationship of Parties. Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent, partnership, joint venture, or any relationship between the parties hereto other than that of

landlord and tenant.

15.4 Construction. Whenever a word appears herein in its singular form, such word shall include the plural; and the masculine gender shall include the feminine and neuter genders. This Lease shall be construed without reference to titles of Articles, Sections or Clauses, which titles are inserted for convenient reference only. This Lease shall be construed without regard to any presumption or other rule permitting construction against the party causing this Lease to be drafted and shall not be construed more strictly in favor of or against either of the parties hereto.

15.5 Consent. Except as otherwise expressly provided to the contrary elsewhere in this Lease, whenever it is necessary under the terms of this Lease for either party to obtain the consent or approval of the other party, such consent or approval shall not be unreasonably withheld or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

15.6 Estoppel Certificate. At any time, either party shall, within twenty (20) days after receipt of a written request from the other, execute, acknowledge and deliver a statement in writing certifying whether this Lease is unmodified and in full force and effect (or if modified, whether the same is in full force and effect as so modified), whether any conditions to the full enforceability of this Lease remain unsatisfied, the Base Rent then payable under this Lease, the dates to which rent, charges or other performances have been paid or completed, and, if applicable, the nature of any claim of default on the part of the other.

15.7 Governing Law; Compliance with Law. This Lease shall be construed and enforced in accordance with the laws of the State in which the Demised Premises is located. Tenant shall observe and comply with all Laws relating to or affecting the Demised Premises and shall not use, occupy, suffer or permit the Demised Premises, or any part thereof, to be used or occupied in violation of any Laws.

15.8 Invalidity or Inapplicability of Clause. If any term or provision of this Lease or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by Law.

15.9 Force Majeure. Except for the payment of sums of money due from one party to the other, if either party hereto shall be delayed or prevented from the performance of any act required hereunder by reason of acts of God, acts of war, terrorism or bioterrorism, terrorist activities, strikes, lockouts, labor troubles, civil commotions, governmental actions, plan approval delay, inability to procure materials, restrictive Laws or regulations, unusually adverse weather for the Town of Frisco area, unusual delay in transportation, delay by the other party hereto or other cause without fault and beyond the control of the party obligated to perform (financial inability excepted) ("Force Majeure Events"), the performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equal to the period of such delay; provided, however, the party so delayed or prevented from performing shall exercise good faith efforts to remedy any such cause of delay

or cause preventing performance.

15.10 Successors or Assigns. Except as otherwise specified in this Lease, the provisions contained in this Lease (including without limitation those applicable to the Demised Premises and the Development) shall run with the land and bind and inure to the benefit of Landlord and Tenant and their respective successors and assigns. Any references in this Lease to Landlord and Tenant shall be deemed to include their respective successors and assigns.

15.11 Disputes. If at any time a dispute shall arise as to any amount or sum of money to be paid by one party to the other or any work to be performed by either of them under the provisions hereof, the party against whom the obligation to pay or to perform is asserted shall have the right to make payment or perform such work and pay the cost thereof "under protest," and such payment or performance shall not be regarded as a voluntary payment or performance and the right of said party to institute suit to recover the amount paid "under protest" shall survive. If it shall be adjudged or mutually agreed by Landlord and Tenant that there was no legal obligation on the part of said party to pay such sum or any part thereof or that said party was not legally obligated to perform, said party shall be entitled to recover the amount paid "under protest" or so much thereof as it was not legally required to pay under the provisions of this Lease, plus interest thereon at the Interest Rate, from the date on which such payment was made until the date on which reimbursement is received.

15.12 Entire Agreement; Representations. This Lease embodies the entire agreement between Landlord and Tenant with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral. Landlord and Tenant have neither made nor relied upon any promises, representations or warranties in connection with this Lease that are not expressly set forth in this Lease. In entering into this Lease, Landlord and Tenant have relied on the representations and warranties contained in this Lease.

15.13 Modification. This Lease may not be modified except by a written agreement signed by all of the parties.

15.14 No Broker. Landlord and Tenant represent and warrant that they have not dealt with any real estate agent or broker in connection with this transaction and each agrees to indemnify and save the other harmless from and against all liability, damage, loss, cost and expense incurred by reason of the indemnitor's breach of said representation, warranty and covenant.

15.15 Hazardous Substances.

(a) LANDLORD INDEMNITY.

(i) LANDLORD REPRESENTS AND WARRANTS THAT TO THE BEST OF THE ACTUAL CURRENT KNOWLEDGE OF ITS MANAGER, LESTER WARPECHA, IT HAS NEVER PLACED, GENERATED, STORED, HANDLED OR DISPOSED OF ANY HAZARDOUS SUBSTANCE IN OR ABOUT THE DEMISED PREMISES. LANDLORD FURTHER REPRESENTS, TO THE BEST OF ITS KNOWLEDGE, THAT LANDLORD IS NOT AWARE OF THE EXISTENCE, GENERATION, STORAGE, HANDLING OR

DISPOSAL OF ANY HAZARDOUS SUBSTANCE IN OR UPON THE DEMISED PREMISES AT ANY TIME.

(ii) LANDLORD SHALL INDEMNIFY AND HOLD TENANT HARMLESS FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ENFORCEMENT ACTIONS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF (A) ANY MISREPRESENTATION OR BREACH OF WARRANTY MADE IN SUBSECTION (i) ABOVE OR (B) THE RELEASE OR PLACEMENT BY LANDLORD OF HAZARDOUS SUBSTANCES TO, IN, OR UPON THE DEMISED PREMISES, AFTER THE EFFECTIVE DATE.

(b) TENANT INDEMNITY. TENANT AGREES NOT TO (AND AGREES THAT ANY SUBLEASE SHALL REQUIRE SUBTENANT NOT TO) GENERATE, STORE, HANDLE OR DISPOSE OF ANY HAZARDOUS SUBSTANCE IN OR UPON THE DEMISED PREMISES OR THE DEVELOPMENT DURING THE DEMISED TERM OF THE LEASE, EXCEPT IN A MANNER CONSISTENT WITH ALL STANDARDS AND REGULATIONS FOR THE SAFE USE OF SUCH HAZARDOUS SUBSTANCE PROMULGATED BY GOVERNMENTAL AGENCIES HAVING JURISDICTION. TENANT SHALL INDEMNIFY AND HOLD LANDLORD HARMLESS FROM AND AGAINST ANY AND ALL DEMANDS, CLAIMS, ENFORCEMENT ACTIONS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF THE PLACEMENT BY TENANT (OR ANY OF ITS SUBTENANTS OR UNIT OWNERS OR CONTRACTORS OF ANY OF THEM) OF HAZARDOUS SUBSTANCES IN OR UPON THE DEMISED PREMISES OR DEVELOPMENT.

15.16 Date of Lease. All references to the "date of this Lease," the "date hereof," the "date upon which this Lease is fully executed" and the like shall be deemed to be the date this Lease is executed by both Landlord and Tenant without regard to when this Lease becomes effective under Section 1.5.

15.17 No Offer. The mailing, delivery or negotiation of this Lease shall not be deemed an offer to enter into any transaction or to enter into any relationship, whether on the terms contained herein or on any other terms. Neither party will be bound by this Lease nor shall either party have any obligations or liabilities or any rights hereunder or with respect to the Demised Premises unless and until both Landlord and Tenant have duly executed and delivered at least facsimile counterparts (e.g., pdf copies delivered by e-mail) of original signature versions of this Lease to each other in compliance with Section 15.24 below.

15.18 Time of Essence. Time is of the essence of this Lease and the performance of the respective obligations of Landlord and Tenant hereunder including, without limitation, the delivery of notices hereunder.

15.19 Tenant's Representations. In order to induce Landlord to enter into this Lease, Tenant represents and warrants that Tenant has full right, power and lawful authority to execute, deliver and perform its obligations under this Lease, in the manner and upon the terms contained herein, with no other person needing to join in the execution hereof in order for this Lease to be

binding on Tenant.

15.20 Landlord's Representations. In order to induce Tenant to enter into this Lease, Landlord represents and warrants that Landlord has full right, power and lawful authority to execute, deliver and perform its obligations under this Lease, in the manner and upon the terms contained herein, with no other person needing to join in the execution hereof in order for this Lease to be binding on Landlord.

15.21 Survival of Obligations. The obligation to pay any sums due to either party from the other that by the terms herein would not be payable, or are incapable of calculation, until after the expiration or sooner termination of this Lease shall survive and remain a continuing obligation until paid. All indemnity obligations under this Lease shall survive the expiration or earlier termination of this Lease.

15.22 Definition of "Month". Whenever in this Lease a deadline or other period of time is determined by measuring one or more months from a particular date (the "Reference Date"), the applicable deadline or ending of such other period of time shall be the date in the ending month that corresponds to the Reference Date. For example, if a deadline is to be two (2) months from a particular Reference Date and the Reference Date is August 6, the deadline would be October 6. If the ending month does not have such a corresponding date, the deadline for ending of the period shall be the date in the ending month that is the last day of the ending month (for example, if the deadline is one month from a Reference Date of May 31, such deadline will be June 30).

15.23 Waiver of Jury Trial. LANDLORD AND TENANT WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY LANDLORD OR TENANT AGAINST THE OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS LEASE OR THE DEMISED PREMISES.

15.24 Counterpart Execution. This Lease may be executed in duplicate counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Any PDF or facsimile transmittal of original signature versions of this Lease shall be considered to have the same legal effect as execution and delivery of the original document and shall be treated in all manner and respects as the original document. The parties also agree to promptly exchange counterparts with original signatures.

## ARTICLE 16. LANDLORD'S OPTIONS TO PURCHASE UNITS

16.1 Options to Purchase. In the event that Tenant converts the Demised Premises or any part thereof to condominiums, then with regard to each Unit, Landlord shall have the option to purchase such Unit at any time after the end of the 45<sup>th</sup> Lease Year at the Fair Market Value (defined in Section 16.2 below) of the Unit.

16.2 Definition of Fair Market Value. "Fair Market Value" means the market value of a Unit, based upon what a knowledgeable, willing, and unpressured buyer would pay to a knowledgeable willing and unpressured seller in the market.

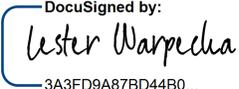
16.3 Exercise of Option. Landlord may exercise its option to purchase with respect to one or more Units at one time and from time to time later exercise its option on another or other Units. The exercise of the option with respect to a particular Unit may be accomplished by notice to the owner of the Unit (the "Exercise Notice"). The exercise Notice shall specify Landlord's opinion of the Fair Market Value of the Unit.

16.4 Determination of Fair Market Value. If the owner of the Unit disagrees with Landlord's opinion of Fair Market Value as expressed in the Exercise Notice, the Unit owner shall within thirty (30) days of the Unit owner's receipt of the Exercise Notice, so notify Landlord specifying the Unit owner's opinion of the Fair Market Value of the Unit ("Objection Notice"). If the Unit owner does not serve Landlord with an Objection Notice within said thirty-day period, then Landlord's opinion of Fair Market Value as expressed in the Exercise Notice shall be deemed the Fair Market Value. In the event that the Unit owner serves Landlord with an Objection Notice within the said thirty-day period, then Landlord and the Unit owner shall confer and attempt to arrive at a compromise as to the Fair Market Value. In the event that Landlord and the Unit owner have not agreed upon a compromise determination of Fair Market Value within thirty days after Landlord's receipt of the Unit owner's Objection Notice, then the Fair Market Value shall be either the Fair Market Value specified by Landlord in its Exercise Notice or the Fair Market Value specified in the Objection Notice, determined by a licensed Colorado residential appraiser with experience in the Summit County market selected by Landlord and the Unit owner or if Landlord and then Unit owner are unable to mutually agree, then the appraiser shall be selected by the chair of the Real Estate Section of the Colorado Bar Association as set forth below. The appraiser so selected is referred to herein as the "Appraiser". Within 30 days after the selection of the Appraiser, the Appraiser shall appraise the Unit and arrive at his own opinion as to Fair Market Value and announce such opinion to the Landlord and Unit owner. The Fair Market Value shall be deemed to be the opinion of Fair Market Value (as set forth in the Exercise Notice or Objection Notice) which is closest to the Appraiser's opinion of Fair Market Value.

16.5 Closing. Within twenty (20) days after Fair Market Value is determined, the closing of Landlord's purchase of the Unit (the "Closing") shall take place. At the closing, the Landlord shall pay the Fair Market Value as determined pursuant to Section 16.4 above and the Unit owner shall convey marketable, indefeasible and insurable title to the Unit in fee simple and convey by good and sufficient special warranty deed, free from all monetary encumbrances whatsoever. In addition, all monies shall be placed with an escrowee of Landlord's designation, and the settlement of the purchase price and the conveyance to Landlord shall take place in escrow. At closing, Unit owner will furnish to Landlord an ALTA title insurance policy, with extended coverage issued by a title insurance company acceptable to Landlord, in its usual form, brought down to the date of the closing, insuring Landlord against loss or damage to the extent of the purchase price by reason of nonexcepted defects in or liens upon Landlord's title. Taxes, utilities, rents and other current expenses shall be adjusted as of the date of the closing date, if necessary.

**IN WITNESS WHEREOF**, Landlord and Tenant have executed this Lease on the day set forth in the introduction hereof.

ALPINE INN LLC

By:  \_\_\_\_\_  
Lester Warpecha, Manager

BASECAMP RESIDENCES LLC

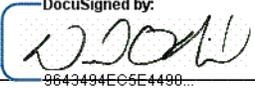
By:  \_\_\_\_\_  
David G. O'Neil, Manager

Exhibit A  
DEMISED PREMISES AND DEVELOPMENT

LEGAL DESCRIPTION  
DEMISE PREMISES  
DISCOVERY INTERCHANGE WEST, LOT 1, BLOCK A

A PARCEL OF LAND BEING A PORTION OF LOT 1, BLOCK A, DISCOVERY INTERCHANGE WEST, ACCORDING TO THE PLAT RECORDED AT RECEPTION NO. 133802, TOWN OF FRISCO, COUNTY OF SUMMIT, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERLY ANGLE POINT OF SAID LOT 1; THENCE S68°21'09" ALONG THE SOUTHERLY PROPERTY LINE OF SAID LOT 1 A DISTANCE OF 89.21 FEET TO THE POINT OF BEGINNING; THENCE S68°21'09"W ALONG THE SAID SOUTHERLY PROPERTY LINE OF LOT 1 A DISTANCE OF 331.04 FEET; THENCE N32°14'05"W A DISTANCE OF 87.78 FEET TO A POINT ON THE NORTHERLY PROPERTY LINE OF SAID LOT 1; THENCE N51°46'30"E ALONG THE NORTHERLY PROPERTY LINE OF SAID LOT 1 A DISTANCE OF 307.75 FEET; THENCE S38°20'32"E A DISTANCE OF 181.75 FEET TO THE POINT OF BEGINNING, CONTAINING 42,248 SQUARE FEET OR 0.970 ACRE MORE OR LESS.

*Robert R. Johns*  
ROBERT R. JOHNS  
COLORADO PLS NO. 26292



DATE May 4, 2022

PROJECT NO. 20178-411  
PREPARED FOR: BRYNN GREY X 6691/22/152

PO box 589  
Silverthorne, CO 80498



(970) 468-6281  
www.rangewestinc.com

