

**PRECONSTRUCTION
PURCHASE AND SALE AGREEMENT
Watermark on Flathead Lake, Fractional Interest**

Statutory Notice:

Pursuant to Section 76-3-303, Montana Code Annotated, Seller provides the following notice: “The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner.”

This Preconstruction Purchase and Sale Agreement (“**Agreement**”) is executed by Mill Creek Lakefront LLC, a Delaware limited liability company (“**Seller**”), and the undersigned (“**Purchaser**”).

1. **Purchase and Sale.** Seller agrees to sell and convey, and Purchaser agrees to purchase and pay for, the following described “Fractional Interest” consisting of an undivided interest in the residential condominium unit (the “**Unit**”), subject to the terms of this Agreement:

A Fractional Interest consisting of an undivided one-quarter (1/4) interest in Unit _____, Watermark on Flathead Lake, according to the Condominium Declaration for Watermark on Flathead Lake (the “**Declaration**”) to be recorded in the office of the Clerk and Recorder of Lake County, Montana (the “**Records**”) together with the exclusive right to possession and occupancy of the Unit during the periods reserved to Purchaser pursuant to the Rules, Regulations and Reservation Procedures of Watermark Condo Association, Inc.

The Unit has _____ bedroom(s), _____ bathrooms, contains approximately _____ square feet and includes the right to use one (1) garage parking space, one (1) surface parking space, and one (1) storage locker at the Project during occupancy of the Unit. A basic floor plan, site plan, and features list for the Unit is attached hereto as Exhibit A.

Prior to the closing of the purchase and sale under this Agreement, Seller will cause the Unit to be constructed in accordance with this Agreement. Capitalized terms used but undefined in this Agreement shall have the meanings given them in the Declaration. The Unit will include an undivided interest in the Common Elements and an exclusive or non-exclusive right to use the Limited Common Elements associated with the Unit, as set forth in the Declaration.

2. **Purchase Price.** The purchase price for the Fractional Interest shall be \$ _____ (the “**Purchase Price**”), subject to adjustment in accordance with Paragraph C and Paragraph 3 of this Agreement, payable as follows:

a. **Earnest Money.** Upon Purchaser’s execution of this Agreement, Purchaser shall pay to the Title Company ten percent (10%) of the Purchase Price (the “**Earnest Money**”). The Title Company shall hold the Earnest Money and any other funds paid by Purchaser prior to Closing hereunder in escrow in a separate account at a Montana bank or savings and loan association. Interest shall accrue on the Earnest Money to the benefit of Purchaser at the rate of four percent (4%) per annum. At the Closing, the Earnest Money (together with interest accrued thereon at a rate of four percent (4%) per annum) will be credited toward payment of the Purchase Price.

b. **Balance.** Purchaser shall pay the balance of the Purchase Price (which shall be the Purchase Price less Earnest Money, plus any other amounts owing by Purchaser to Seller under this

Agreement), as adjusted under Paragraph 3 below, in cash or certified funds or by wire transfer of immediately available funds at the Closing.

3. **Closing Date.** The Closing shall occur after Substantial Completion of the Unit, determined pursuant to Subparagraph C.1 of Addendum No. 1, at a date, hour and place designated by Seller within Lake County, Montana. Seller, or Seller's agent, will give to Purchaser written notice of the date of Closing (the "**Closing Date**") at least fifteen (15) days in advance of the scheduled Closing date (the "**Closing Notice**"). If Purchaser executes this Agreement after Substantial Completion of the Unit, Closing shall occur thirty (30) days thereafter. Purchaser agrees and acknowledges that if the Closing does not take place on the Closing date as specified above, Seller will incur significant expenses for items such as property taxes, assessments, debt service, and other operating expenses and carrying charges.

4. **Possession.** Seller shall deliver possession of the Fractional Interest to Purchaser upon Closing. After delivery of possession, portions or phases of the Project may remain uncompleted. Seller and the Seller Parties will have the right to enter on the Project as necessary to complete the Project and Purchaser acknowledges that construction activities may take place on the site after delivery of possession of the Fractional Interest. Seller and the Seller Parties will take reasonable measures relative to the safety of Purchaser and Purchaser's lessees, family, guests and invitees. Purchaser acknowledges that possession of the Fractional Interest will constitute agreement that Purchaser and Purchaser's lessees, family, guests and invitees will remain outside of any fenced or posted construction areas and any other areas in which work is being performed pending completion of the Project and that Purchaser, for itself and the Purchaser Parties will indemnify and hold harmless Seller and the Seller Parties from and against any and all loss or liability on account of such entry by Purchaser or such other persons. The terms and covenants of this Paragraph 4 will survive the Closing.

5. **Smoke Detection Disclosure.** Pursuant to the provisions of Title 70, Chapter 20, Part 1 of the Montana Code Annotated, Seller notifies Purchaser that the Unit is equipped with smoke detectors.

6. **Inspection by Purchaser.** Upon reasonable advance request, Seller may, in its sole discretion allow Purchaser and Purchaser's authorized representatives to tour the Project site prior to and after commencement of construction. Purchaser acknowledges that prior to and during construction of the Project, hazardous conditions and insurance and security requirements prevent Purchaser and Purchaser's representatives from entering the Project site unless previously approved by Seller in Seller's sole discretion unless accompanied by an authorized representative of Seller. Any such inspection if and to the extent permitted by Seller shall be conducted in full compliance with rules and procedures established by Seller and/or by the general contractor for the Project (the "**Contractor**") or imposed by Applicable Law. Any tour of the Project site by Purchaser and Purchaser's representatives will be at their own risk. Purchaser, for itself and for Purchaser's guests, invitees, family members, consultants, contractors, agents, successors, assigns, heirs and personal representatives of Purchaser (the "**Purchaser Parties**"), waives and releases all actions and claims against Seller and its members, officers, managers, successors, assigns, contractors, subcontractors, employees and agents (the "**Seller Parties**") for personal injury or property damage caused by any person or thing during such a tour, except to the extent caused solely by the gross negligence or willful misconduct of Seller. Purchaser, for itself and for the Purchaser Parties, will indemnify, defend and hold harmless Seller and the Seller Parties against any claims, demands, loss, damages, liability or other expense arising out of such tour or any other entry on the site by Purchaser or any Purchaser Party, except to the extent caused solely by the gross negligence or willful misconduct of Seller. The provisions of this Subparagraph shall survive Closing.

7. **Closing Contingencies.**

a. **Final Plat.** The final plat shall have been approved by all applicable governmental authorities and shall have been recorded in the Records.

b. Permit. Seller's obligations under this Agreement are expressly contingent and conditioned upon Seller obtaining the final building permit for the Project within ____ (___) months of the Effective Date (the "**Contingency**"). If Seller does not meet the Contingency, Seller shall have the right to terminate this Agreement, at Seller's sole option, by giving Purchaser notice of such termination within sixty (60) days of the expiration of the Contingency. In such event and at such time, this Agreement shall terminate, and Seller shall return the Earnest Money to Purchaser and neither party shall have any further liability under this Agreement. Seller shall have the right, however, at Seller's sole option, to waive the Contingency and proceed with the Project. In the event that Seller does not give Purchaser a termination notice within sixty (60) days of expiration of the Contingency, Seller shall be deemed to have waived the Contingency, and this Agreement shall continue in full force and effect.

c. Project Financing. Seller's obligations under this Agreement are expressly contingent and conditioned upon Seller obtaining construction financing for the development of the Project on or before September 30, 2007 (the "**Contingency**"). If Seller does not meet the Contingency, Seller shall have the right to terminate this Agreement, at Seller's sole option, by giving Purchaser notice of such termination within sixty (60) days of the expiration of the Contingency. In such event and at such time, this Agreement shall terminate, and Seller shall return the Earnest Money to Purchaser and neither party shall have any further liability under this Agreement. Seller shall have the right, however, at Seller's sole option, to waive the Contingency and proceed with the Project. In the event that Seller does not give Purchaser a termination notice within sixty (60) days of expiration of the Contingency, Seller shall be deemed to have waived the Contingency, and this Agreement shall continue in full force and effect.

d. No Purchaser Financing Contingency. Purchaser understands and agrees that this Agreement is not contingent upon Purchaser's obtaining financing for Closing.

8. Closing Costs. Purchaser agrees to pay any documentary or similar fees on the warranty deed and the fee for recording the warranty deed. Purchaser shall pay at Closing all costs of whatever kind or nature incurred by Seller or its agents in connection with the mail closing, including without limitation the Title Company's closing fees and all costs of any courier service or postage. Purchaser is responsible for paying the costs associated with any financing that Purchaser may obtain.

9. Title.

a. Commitment. Seller has delivered a pro forma preliminary title insurance commitment (the "**Pro Forma Commitment**") issued by Lake County Title and Abstract Co. (the "**Title Company**") for units at the Project and Purchaser acknowledges that it has had an opportunity to review the Pro Forma Commitment and the exception documents referenced in the Pro Forma Commitment. The title to the Fractional Interest shall be subject to the following (the "**Permitted Exceptions**"):

i. the standard printed exceptions and the specific exceptions appearing in the Pro Forma Commitment and any amendments thereto occurring subsequent to the date of the Pro Forma Commitment;

ii. matters set forth in the Declaration and the Map and the other Condominium Documents;

iii. any easements, licenses or covenants granted to the public, adjacent property owners, utility companies, the county and any other units or agents of government that do not interfere with the Purchaser's use of the Unit for its intended purpose, whether granted before or after the date of the Pro Forma Commitment (it being acknowledged by the Purchaser that neither Purchaser nor its

lenders, if any, shall have any right to join in, consent to or object to any such easement, license or covenants);

iv. any exceptions relating to any financing obtained by the Purchaser; and

v. subject to the objection rights set forth in Subparagraph (b) below, any other exceptions to title that may arise in the course of developing the Project prior to the Closing.

Prior to Closing, Seller shall deliver to Purchaser a final title insurance commitment (the “**Final Commitment**”) reflecting the Purchaser’s identity and the particular Unit, committing to insure marketable title to the Fractional Interest in Purchaser in the amount equal to the Purchase Price upon payment of the policy premium by Seller and the recording of a deed from Seller.

b. Title Review. By execution of this Agreement, Purchaser has approved title as shown in the Pro Forma Commitment. To the extent liens or encumbrances are recorded against the Unit or the Fractional Interest, which are not Permitted Exceptions and were not disclosed on the Pro Forma Commitment and which would render title to the Fractional Interest unmarketable, Purchaser may object to such new matters by giving written notice to Seller within seven (7) days of Purchaser being notified of such matters. Otherwise, Purchaser shall be deemed to have accepted title as shown on the Final Commitment. After the receipt of such notice, Seller may, at its election, attempt to remove or cure such exception(s) or to obtain an endorsement to the Final Commitment providing protection against such exception(s), at Seller’s expense, and Seller shall be entitled to an adjournment of the Closing for a period of up to thirty (30) days for such purposes. The existence of liens or encumbrances of any kind shall not constitute a defect allowing termination by Purchaser if Seller elects to provide to Purchaser a title insurance endorsement insuring against such lien or encumbrance. If Seller is unable to remove or cure such exceptions to title or obtain such title insurance protection before the date of Closing (as extended under this Paragraph above), Purchaser, within seven (7) calendar days after the end of the adjournment period, shall elect any of the following actions, which shall be Purchaser’s exclusive remedies in the event title to the Fractional Interest is unmarketable:

i. Waive such exceptions to title without adjustment in the Purchase Price and proceed to Closing;

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

iii. Terminate this Agreement, in which event Seller shall return the Earnest Money, without interest, to Purchaser, and the parties shall be released from all further obligations under this Agreement.

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

c. RESPA. As required by the Real Estate Settlement Procedures Act of 1974, Purchaser acknowledges that Seller has not directly or indirectly required Purchaser, as a condition of sale, to purchase either an owner’s or mortgagee’s title insurance policy from any particular title company. Seller hereby advises Purchaser that it will purchase, at Seller’s sole cost and expense, an owner’s policy of title insurance from a title company selected by Seller. Seller advises Purchaser that if Purchaser does not wish Seller to purchase such title insurance policy from the company selected by Seller, Purchaser may elect to change such insurance to a company of its choice and shall pay, at Closing,

that portion, if any, of the title insurance premium charged by the title insurance company selected by Purchaser in excess of the premium that would have been charged by the title insurance company initially selected by Seller.

10. **Special District Disclosure.** The Unit may be located within a special taxing or assessment district pursuant to Montana law. Special districts may be subject to general obligation indebtedness that is paid by revenues produced from annual tax levies on the taxable property within such districts. Property owners in such districts may be placed at risk for increased mill levies and excessive tax burdens to support the servicing of such debt where circumstances arise resulting in the inability of such a district to discharge such indebtedness without such an increase in mill levies. Buyers should investigate the debt financing requirements of the authorized general obligation indebtedness of such districts, existing mill levies of such district servicing such indebtedness, and the potential for an increase in such mill levies.

11. **Association Assessments.** Assessments pursuant to the Declaration are paid monthly in advance and Assessments for the month of Closing shall be prorated as of the date of Closing. If the Closing is held within thirty days of the end of a calendar month, Purchaser shall also pay, at Closing, Assessments on the Fractional Interest for the following month. A final Budget is not yet available, but Seller roughly estimates that Assessments for the Fractional Interest will be in the range of \$325 to \$375 per month. This figure is an estimate only and is not binding upon Seller. Following Closing, Assessments may be increased as provided in the Condominium Documents.

12. **Working Capital.** In order to provide the Association with working capital funds, Purchaser shall pay at Closing an amount equal to two (2) months' worth of annual Assessments based on the Association's Budget in effect at the time of Closing. This payment shall not be considered a deposit or an advance payment of Assessments and the Purchaser's obligation to make this payment at Closing shall be in addition to Purchaser's obligations to pay Assessments. The payment shall be made either to the Association or to Seller as reimbursement if Seller has previously paid any amount as working capital for the Unit to the Association.

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

14. **Transfer Taxes.** Purchaser shall pay at the time of Closing any transfer assessment or tax imposed by any governmental, quasi-governmental or private entity.

15. **Noxious Weeds.** Purchaser acknowledges the following noxious weeds disclosure: The laws of the State of Montana require sellers or property to notify buyers of property that noxious weeds exist or potentially exist on the property being offered for sale. The State of Montana and Lake County have established certain requirements for control of noxious weeks. For information concerning noxious weeds and a property owner's obligations, Buyer may contact either the local County extension agent or the County Weed Control Board. Prior to undertaking any eradication of noxious weeds on the Property, Purchaser also should notify the Master Association to ensure that control efforts are consistent with any covenants or rules that apply to the Property.

16. **Megan's Law Disclosure.** Pursuant to the provisions of Title 46, Chapter 23, Part 5 of the Montana Code Annotated, certain individuals are required to register their address with local law

enforcement agencies as part of Montana's Sexual and Violent Offender Registration Act. In some cases, law enforcement officers will make the information concerning registered offenders available to the public. You may contact the Sheriff's office, the Montana Department of Justice, or a County probation officer for further information.

17. **Radon Disclosure Statement.** The following disclosure is given pursuant to the Montana Radon Control Act, Montana Code Annotated Section 75-3-606.

RADON GAS: RADON IS NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN MONTANA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY OR STATE PUBLIC HEALTH UNIT.

If any building on the Property has been tested for radon, Seller will provide a copy of the test results concurrent with an executed copy of this Agreement. If any building has received radon mitigation treatment, Seller will provide the evidence of the mitigation treatment concurrent with an executed copy of this Agreement. The furnishing of test results is not to be construed as a promise, warranty or representation of any sort by Seller or Seller's agent that the test results are accurate or that any mitigation or treatment is effective.

18. **Default and Termination.**

a. **Default by Purchaser.** If Purchaser defaults in the performance of its obligations, Seller may elect either of the following remedies:

i. Seller may terminate this Agreement, in which event Seller shall be entitled to keep the Earnest Money, including any interest thereon, as liquidated damages (and not as a penalty), the parties agreeing that Seller's actual damages may be difficult to ascertain, and that the amount of the Earnest Money reasonably approximates the damages Seller would sustain in the event of a default by Purchaser, other than damage arising from any claims for mechanics' liens resulting from work or materials ordered by Purchaser for the Unit (provided that nothing contained herein shall be deemed to permit Purchaser to order such work or materials). In the event of such termination, Purchaser, upon demand, will execute and deliver such documents as Seller may reasonably request to evidence the termination or to remove any cloud on title to the Unit; or

ii. Seller may assert a claim against Purchaser for specific performance or damages, or both.

If Seller elects to terminate this Agreement following a default by Purchaser, and if, at the time of Seller's exercise of that remedy, there remains outstanding and unpaid any invoice for work and/or materials for the Unit ordered by Purchaser, then Seller shall have the right, in addition to any other rights and remedies reserved or allowed for Seller under this Agreement or by law, to pay those invoices to ensure that no mechanic's or materialman's lien will be imposed against the Unit, and to charge Purchaser for all amounts so paid by Seller. Any amounts paid by Seller for such work or materials will bear interest at an annual rate of eighteen percent (18%) beginning the fifth day after Seller gives notice to Purchaser of the amount paid by Seller and due from Purchaser.

b. **Default by Seller.** If Seller defaults in the performance of its obligations under this Agreement, Purchaser shall be entitled to terminate this Agreement, in which event Seller shall return the Earnest Money, without interest, to Purchaser. The parties agree that Purchaser's actual damages may be difficult to ascertain and that the amount of the Earnest Money and Additional Work cost specified for refund reasonably approximates the damages Purchaser would sustain in the event of a default by Seller and shall be Purchaser's sole remedy in the event of such a default.

c. **Enforcement.** All controversies and disputes between Seller and Purchaser and all claims by Seller or Purchaser against the other directly or indirectly arising out of, or related to this Agreement, if and to the extent the same survive Closing in accordance with the terms of this Agreement, must be brought no later than one (1) year following Closing. This provision shall not expand any rights of the parties or extend any limitations periods stated by law, but shall instead act only as a limitation of the parties' enforcement rights. The provisions of this Paragraph shall survive Closing.

19. **Risk of Loss; Casualty.**

a. **Allocation of Risk.** Seller shall bear the risk of loss to the Unit until the Closing. After Closing, Purchaser shall bear all such risk of loss.

b. **Casualty.** If casualty by fire or otherwise occurring prior to Closing damages the Unit, Seller may elect, in Seller's sole and absolute discretion, to either (i) terminate this Agreement, in which case the Earnest Money shall be returned to Purchaser and the parties shall have no further obligations hereunder, or (ii) repair the damage and rebuild the Unit as soon as reasonably practicable, and the Closing shall be delayed as necessary to allow the completion of such repair and rebuilding work.

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

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

22. **Assignment.** 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 denied in Seller's sole discretion. The foregoing notwithstanding, Seller shall not unreasonably withhold its consent if the proposed assignment is to a person related to Purchaser or to an entity in which Purchaser has a significant economic interest. Any purported assignment of this Agreement without Seller's written consent shall be voidable and shall place Purchaser in default under Paragraph 18 above, at the option of Seller. Seller's refusal to consent to an assignment of this Agreement shall not entitle Purchaser to terminate this Agreement or give Purchaser any rights or claims for damages against Seller. Seller may assign its interest under this Agreement without Purchaser's consent so long as the assignee assumes Seller's obligations hereunder. In addition, Seller may collaterally assign its rights and interests hereunder to a lender or lenders and, if required by any lender of Seller, Purchaser shall promptly execute and deliver an acknowledgement of any such collateral assignment of this Agreement by Seller. At the option of such lender, Purchaser's rights under this Agreement shall be subject and subordinate to the rights of such lender until Closing and, if requested by the lender, Purchaser shall promptly execute and deliver a subordination agreement to evidence the same. In the event of a conflict between this Paragraph and any other Paragraph of this Agreement, this Paragraph shall prevail.

23. **Attorneys' Fees.** Should any action be brought to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to receive from the defaulting party all reasonable

costs and expenses, including reasonable attorneys' fees (and reasonable fees of legal assistants), incurred by the prevailing party in such action. For the purposes of this Paragraph, the term "prevailing party" shall include a party who withdraws a claim in consideration for payment allegedly due or performance allegedly owed or other consideration in substantial satisfaction of the claim withdrawn.

24. **Brokers.** Each party represents to the other that no real estate broker, agent or finder other than the Listing Broker and the Cooperating Broker identified on the signature page(s) hereof (if any) has any claim for compensation or expenses as a result of this transaction, and each party shall indemnify the other against any claims for commissions or other compensation by any other broker, agent or finder with whom the indemnifying party has dealt. Purchaser acknowledges that any compensation owed to any Cooperating Broker shall be paid by the Listing Broker pursuant to the separate agreement of the Listing Broker and any Cooperating Broker, and Seller shall not be responsible for the same. The Cooperating Broker is not an agent of the Seller, and Purchaser acknowledges that Purchaser's relationship with the Cooperating Broker has been previously disclosed to Purchaser in a notice from Cooperating Broker to Purchaser. Listing Broker is a Seller's Agent.

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

26. **Addendum.** This Contract is subject to the additional terms and conditions described in Addendum No. 1 ("**Addendum No. 1**") attached hereto and incorporated into this Contract by this reference.

[Remainder of Page Intentionally Left Blank]

EXECUTED on the dates shown below.

SELLER:

MILL CREEK LAKEFRONT LLC, a Delaware limited liability company

Date: _____

By: Mill Creek VII Limited Partnership,
a Delaware limited partnership, its Sole Member

By: Mill Creek Polson Properties, Inc., a
Delaware corporation, its General Partner

By: _____

Name: _____

Its: _____

Address:
385 Carleton Drive
St. Albert, Alberta T8N 7L1
Canada
Telephone: _____
Telecopier: _____

PURCHASER:

Date: _____

Print Name: _____

Address: _____

Print Name: _____

Telephone: _____

Telecopier: _____

If Purchaser has signed this Agreement Prior to Seller's signing above, then unless Seller executes this Agreement on or before _____, the Purchaser's offer shall be null and void, this Agreement shall have no force or effect, and the Earnest Money shall be promptly returned to Purchaser.

LISTING BROKER:

PRUDENTIAL MONTANA REAL ESTATE

Date: _____

By: _____

Address:
1020 South Avenue West
Missoula, Montana 59801
Telephone: (406) 721-4141
Telecopier: (406) 728-4660

COOPERATING BROKER:

Date: _____

By: _____

Address:

Telephone: _____
Telecopier: _____

Addendum 1
(Attached to and forming a part of the Contract)

A. **Description of the Project.** The Project, known as “**Watermark on Flathead Lake**” shall consist of twelve (12) residential condominium units, any or all of which may be submitted to the Plan and fractional interest form of ownership, parking facilities and storage facilities and related Common Elements, including a lounge, outdoor terrace and beach waterfront, and jacuzzi (the “**Project**”). The property underlying the Project is legally described on Exhibit B.

B. **Legal Documentation.**

1. **Condominium Documents.** The Project shall be subject to and governed by the Declaration and the Articles of Incorporation, Bylaws and Rules and Regulations of the Watermark Condo Association, Inc., a Montana nonprofit corporation (the “**Association**”) (collectively, the “**Condominium Documents**”). By signing this Agreement, Purchaser acknowledges receipt, review and approval of drafts of the Condominium Documents. Purchaser further acknowledges that upon purchase of the Fractional Interest, Purchaser will become a member in the Association and shall be bound by the Condominium Documents. Purchaser agrees to abide by all of the recorded and unrecorded documents applicable to the Unit, including the Condominium Documents and the Permitted Exceptions (defined below). Purchaser acknowledges that Seller has not yet formed the Association and that the Condominium Documents are currently in draft form and are subject to revision by Seller prior to Closing, without Purchaser’s joinder, review or approval, provided that no such revisions shall materially and adversely affect the rights or privileges of Purchaser to use and occupy Purchaser’s Unit. The Association is being established for the purpose of maintaining the Common Elements and for other purposes set forth in the Declaration and Articles of Incorporation and Bylaws of the Association, and any amendments thereto. Purchaser, as a member of the Association, is obligated to pay Assessments to meet the Common Expenses. Failure of an Owner to pay such Assessments will result in a lien being placed on the Fractional Interest or the Unit, and may subject the Owner to other remedies as described in the Condominium Documents.

2. **Unit Ownership Act Receipt.** By signing this Agreement, Purchaser acknowledges receipt, review and approval of a copy of the Montana Unit Ownership Act, Title 70, Chapter 23 of the Montana Code Annotated, as in effect as of the date hereof. Purchaser acknowledges that it has seventy-two (72) hours following execution of this Agreement to terminate this Agreement pursuant to the requirements of applicable law by delivering written notice thereof to Seller. In connection therewith, Purchaser further acknowledges that a majority of the condominium units may be owned by one person, corporation or other legal entity. Any bylaws and administrative regulations governing the operation of the development and the Association, as adopted by the Association, may have been adopted by Seller or other person acting as a majority of the unit owners and any change in the bylaws or administrative regulations occurring while Seller or other person constitutes a majority of the unit owners may be made only with the approval of Seller or other person constituting a majority of unit owners, all as more particularly described in the amendments section of the Declaration.

C. **Construction of the Unit.**

1. **Substantial Completion.** Pursuant to this Agreement, Purchaser is agreeing to purchase the completed Unit. Purchaser acknowledges that Seller is not acting as a contractor for Purchaser in the construction of said Unit. Purchaser shall acquire no right, title or interest in or to the Fractional Interest except the correlative right and obligation to purchase the Fractional Interest, in

accordance with the terms hereof, upon completion of the Unit. Purchaser shall have no right to entry, modification, occupancy or possession of the Unit until Closing hereunder and then only in accordance with the Condominium Documents. The Unit is to be constructed and completed substantially in conformance with the floor plan, site plan and features list attached hereto as Exhibit A and with the Plans and Specifications defined below. Seller anticipates that the Unit will be Substantially Complete on or before December 1, 2008 and shall use commercially reasonable efforts to Substantially Complete the Unit by that date. However, the date of Substantial Completion will be extended for any delays beyond Seller's control, including, but not limited to, delays caused by weather, inability to obtain materials, labor shortages, strikes, acts of God, war, acts of terrorism, civil commotion, governmental regulations, court orders, soils conditions, acts of or delays caused by governmental agencies, contractor delays, installations of public improvements or other conditions or events generally or legally recognized in the State of Montana as frustrating or rendering impossible performance of contracts. For all purposes under this Agreement, the date of "**Substantial Completion**" shall be the date Seller has obtained either a temporary (conditional) or permanent certificate of occupancy for the Unit from an appropriate governmental authority. Water, sanitary sewer, gas, electricity, heat, telephone and cable will be completed and available at the Project prior to Closing.

2. Plans and Specifications. Plans and specifications (the "**Plans and Specifications**") prepared by Seller's architect, Dia Sullivan Architect, PLLC (the "**Architect**"), are available for review by Purchaser at Seller's office during normal business hours. Seller reserves the right, at its option, to substitute or change fixtures, equipment and materials (including any materials related to either of the Options) with fixtures, equipment and materials of equal or better quality and to make other minor modifications to the Plans and Specifications as Seller determines if the quality of the Unit remains substantially unaffected by such substitutions and changes. In addition, Seller is authorized to modify the Plans and Specifications and make substitutions in its sole discretion but in a reasonable manner (a) to meet requirements or requests of governmental authorities, (b) to correct errors, omissions and oversights, (c) to meet site requirements or to address construction restrictions, (d) to overcome hindrances to the expeditious completion of construction due to strikes or materials or labor shortages; (e) to address shortages, unavailability or unsuitability of products or materials; and (f) to make relocations of electrical, plumbing, heating and similar services and equipment. It is anticipated that there will be minor deviations in room dimensions, locations of windows, doors, heating registers and controls, electrical outlets and switches, telephone outlets and other items of similar nature from the exact requirements of the Plans and Specifications and such deviations will not be a breach of this Agreement by Seller. Similarly, statements of approximate square footage of the Unit, as well as of the Common Elements located in the Project, may be made in this Agreement and in the Plans and Specifications (as they may be modified as permitted under this Agreement). Purchaser acknowledges, however, that square footage calculations may be made in a variety of manners, and as long as the Unit is constructed substantially in accordance with the Plans and Specifications, Purchaser will have no right to rescind this Agreement, nor will Purchaser be entitled to any claim for breach of this Agreement or adjustment of the Purchase Price, on account of alleged or actual discrepancies in square footage calculations. Purchaser acknowledges that Purchaser has reviewed and accepted the Plans and Specifications or hereby waives the right to do so.

3. Control of Construction. Purchaser acknowledges that control, direction and supervision of all construction or design personnel at the construction site lies exclusively with Seller and that Purchaser may not issue any instructions to, or otherwise interfere with, construction personnel. Purchaser, for itself and for the Purchaser Parties will indemnify, defend and hold harmless Seller and the Seller Parties against any claims, demands, loss, damages, liability, or other expense that they may incur by reason of Purchaser's breach of any provision of this Subparagraph. The provisions of this Subparagraph shall survive Closing.

4. Model Home Items. Purchaser acknowledges that any furniture, furnishings, interior decorating, decorator mirrors, unattached lighting fixtures, window coverings, upgrade floor coverings, wall coverings, built ins, ceiling fans, accessories and other miscellaneous items utilized for marketing are for exhibition purposes only, and are not included in this sale, unless expressly included in writing in this Agreement. Purchaser acknowledges that any model of any unit shown to Purchaser or the drawings and pictures contained in any sales brochure or literature do not constitute a warranty or a representation of the features, materials and products that will be contained in the Unit or that the Unit will conform to the models, drawings or pictures.

D. Final Plat. If the final plat of the Project is not filed with the Clerk and Recorder for Lake County, Montana within two (2) years of the preliminary plat approval, Seller shall immediately cause the Earnest Money to be refunded to Purchaser.

E. Warranties.

1. Limited Warranty by Seller. The following warranty (the “**Limited Warranty**”) is the only warranty made by Seller regarding labor and materials used in the construction of the Unit, and the Limited Warranty shall not be effective until Closing. The Limited Warranty is personal to Purchaser and may not be assigned by Purchaser upon the sale of the Fractional Interest. Based on the warranties in favor of Seller from its Contractor and suppliers, Seller warrants that the foundation and all materials incorporated in and made a part of the structure of the Unit shall be new as of the date of installation and shall remain free from defects in workmanship or material for a period of one (1) year from the date of Substantial Completion. Seller represents that Seller will cause to be remedied, by repair or replacement, any defects in the Unit which appear within one (1) year from the date of Substantial Completion and which result from faulty material or workmanship, provided that Purchaser gives Seller written notice of any such defect within ten (10) days after Purchaser’s discovery of the defect. Any such notice shall be addressed to Seller at the address following Seller’s signature below, or such other address for notice furnished to Purchaser in accordance with Paragraph H hereof. Purchaser’s sole remedy (in lieu of all remedies implied by law or otherwise) against Seller in connection with such defects shall be to require Seller to cause the defects in material or workmanship to be corrected.

2. Appliance Warranty. The Limited Warranty in Subparagraph 1 above does not extend or relate to any items of tangible personal property in the Unit (whether or not such property is attached to or installed in the Unit) including, without limitation, any range, oven, range hood and fan, trash compactor, microwave, garbage disposal, dishwasher, refrigerator, washer, dryer, hot water heater, steam showers, hot tubs, fireplace inserts, components of the telecommunications, heating, ventilation or other systems and any fire alarm or other life-safety or security system installed in or servicing the Unit (collectively, the “**Appliances**”). Seller will assign to the Association at Closing any unexpired warranties Seller has received from the manufacturers of such Appliances to the extent such warranties are assignable. Purchaser shall pursue any warranty matters directly with the manufacturer. Seller shall not be responsible for the performance of any such manufacturer under the manufacturer’s warranties and Seller shall not be required to intervene or otherwise act in connection with warranty matters or complaints. With respect to the Appliances, whether or not warranted by manufacturers, all implied warranties are expressly disclaimed and do not apply, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose, if created and recognized under Montana law.

3. Restrictions on Warranties. EXCEPT AS STATED IN SUBPARAGRAPH (1) ABOVE, SELLER MAKES NO WARRANTY OR REPRESENTATION OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF WORKMANLIKE

CONSTRUCTION, HABITABILITY, DESIGN, CONDITION, OR QUALITY AS TO THE PROPERTY UNDERLYING THE PROJECT, THE UNIT, OR THE OTHER IMPROVEMENTS CONSTITUTING THE PROJECT, AND SELLER HEREBY EXPRESSLY DISCLAIMS ANY SUCH REPRESENTATIONS OR WARRANTIES. SELLER SPECIFICALLY DISCLAIMS, AND PURCHASER SPECIFICALLY RELEASES SELLER FROM, ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES TO ANY PERSON OR THE UNIT OR ANY OTHER REAL OR PERSONAL PROPERTY RESULTING FROM A DEFECT. WITH REGARD TO THE APPLIANCES AND ANY OTHER ITEMS OF TANGIBLE PERSONAL PROPERTY, SELLER DISCLAIMS ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

4. Magnuson-Moss Warranty Act Compliance. The Limited Warranty set forth above has been prepared to comply with the disclosure requirements of the federal Magnuson-Moss Warranty - Federal Trade Improvement Act (15 U.S.C. § 2301, as amended). With respect to any Appliances finally determined by a court to be within the Limited Warranty described above, all implied warranties are limited in duration to the period of the Limited Warranty. This includes, without limitation, the implied warranties of merchantability and fitness for a particular purpose if created or recognized in Montana. Some states do not allow limitations on how long an implied warranty lasts or the exclusion or limitation of incidental or consequential damages so the above limitation may not apply to Purchaser. The Limited Warranty gives specific legal rights, and Purchaser may also have other rights which vary from state to state.

5. Acknowledgment; Survival of Covenants. Purchaser hereby acknowledges and accepts the foregoing disclaimers and agrees to waive any and all rights Purchaser may have by virtue of the representations and warranties disclaimed. Except as otherwise provided in the Limited Warranty, Purchaser assumes the risk of damage occurring in the Unit after the Closing regardless of the cause. The provisions of this Paragraph shall survive Closing.

F. **Closing Procedures.** Unless Purchaser and Seller otherwise agree, Closing shall be effected by mail and Purchaser need not be present. Title Company shall act as the closing agent and shall collect and disburse documents and payments necessary to effect the Closing. Purchaser shall be given at least five (5) days prior notice of the last day by which Purchaser must deliver any necessary documents and payments to the Title Company. Documents required to be executed by Purchaser in accordance with this Subparagraph shall be delivered to Purchaser contemporaneously with such notice. At Closing, all of Purchaser's funds and documents shall be delivered to the Title Company unless otherwise directed by Seller. Immediately following the date of Closing, Purchaser's deed will be delivered for recording in the Records. At the Closing, the parties shall take the following actions:

1. Seller shall deliver to Purchaser an executed and acknowledged warranty deed to the Fractional Interest subject only to the Permitted Exceptions and any other title exceptions waived by Purchaser pursuant to Subparagraph 9.b above;
2. Seller shall convey title to any personal property and fixtures within the Unit by a bill of sale to the Association;
3. Purchaser shall pay the balance of the Purchase Price as required by Paragraph 0 and the parties shall execute settlement statements prepared in accordance with the terms of this Agreement;

4. Purchaser shall deliver an executed acknowledgement of receipt of copies of the final Condominium Documents; and

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

G. **Recording of Agreement.** If at any time before Closing Purchaser causes this Agreement or any memorandum, affidavit or other instrument (other than a lis pendens) which makes reference to this Agreement to be recorded in the Records, then Seller, at Seller's sole election, may deem Purchaser in default and exercise its remedies pursuant to Paragraph 18 hereof. In addition, Purchaser, upon demand, will execute and deliver such documents as Seller may reasonably request to remove any cloud of title on the Unit.

H. **Notices.**

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

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

I. **Representations, Warranties and Acknowledgments of Purchaser.**

1. **No Investment Representations.** Purchaser acknowledges that neither Seller nor any of the Seller Parties nor the Listing Broker or any of their respective agents, representatives or employees have made any warranties or representations concerning (i) the Unit or the Fractional Interest as an investment opportunity for appreciation of value or as a means of obtaining income from the rental thereof, or (ii) rental or other income from any Unit or as to any other economic benefit, including possible federal or state tax advantages from the ownership of a Unit. Purchaser is purchasing the Fractional Interest and the rights and privileges evidenced thereby for Purchaser's own personal use and account and not for any other purpose and does not expect to profit from ownership of the Fractional Interest. SELLER HEREBY EXPRESSLY DISCLAIMS AND REPUDIATES ANY REPRESENTATION FROM ANY SOURCE AS TO ANY POSSIBLE ECONOMIC BENEFIT ARISING FROM OWNERSHIP OF A FRACTIONAL INTEREST IN THE PROJECT.

2. **Acknowledgment.** Purchaser acknowledges that it has reviewed and understands all documents referenced in this Agreement. Further, Purchaser acknowledges that Seller has advised Purchaser to obtain legal counsel to review all aspects of the transaction contemplated by this Agreement,

and to represent Purchaser in connection with the review and negotiation of this Agreement, the examination of title and the Closing.

3. Lake Facilities. Purchaser acknowledges and understands that the Project is located in close proximity to the Flathead Lake (the “**Lake**”), a public body of water where year-round recreation activities occur. The use of the Lake may generate an unpredictable amount of visible, audible and odorous impacts and disturbances. The activities associated with the Lake include, without limitation (i) vehicular and pedestrian traffic; (ii) boating, fishing, and similar maritime activities; (iii) hiking, horseback riding, bicycling, other recreational and other activities and organized events and competitions; and (iv) lodging, cabins, restaurants, clubs and restrooms and other public use facilities.

4. Commercial Activities. A variety of commercial activities are and will be conducted adjacent to the Project (as further described below, the “**Commercial Activities**”). The Commercial Activities are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances. The Commercial Activities may include, without limitation: (i) office and retail uses, (ii) retail sales and rentals, (iii) live music and other entertainment, (iv) sales of tickets; (v) restaurant and bar operations; (vi) sales of services relating to recreational activities; (vii) parking activities; (viii) the installation, operation and maintenance of illuminated and non-illuminated signage; (ix) weddings, banquets, meetings and conferences; and (x) any other uses or activities permitted by law. The Commercial Activities may occur during daytime and nighttime. Purchaser, by taking title to a Unit, acknowledges that Commercial Activities, and the impacts and disturbances generated by them, may occur in and around the Project. No Owner may assert or claim any violation of this Agreement or the Condominium Documents based on the existence or occurrence of Commercial Activities, or impacts and disturbances generated by them. Purchaser, for itself and for the Purchaser Parties forever waives and releases any actions or claims Purchaser may have against Seller and the Seller Parties and their respective successors and assigns which in any way arise out of the impacts and disturbances generated from Commercial Activities. The provisions of this Subparagraph shall survive the Closing.

5. Corporations, Partnerships and Associations, and Liability. PLEASE NOTE THAT THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES TO PURCHASER, WHICH PURCHASER SHOULD DISCUSS WITH LEGAL AND TAX PROFESSIONALS. Purchaser represents that Purchaser has full authority and capacity to enter into this Agreement and to execute and deliver the documents to be executed and delivered by Purchaser pursuant to the terms of this Agreement.

6. Corporations. If Purchaser is a corporation, Purchaser shall deliver to Seller at or prior to Closing a copy of a resolution of the shareholders and/or directors of Purchaser, duly adopted and certified by the secretary of Purchaser as required by the laws of the state of Purchaser’s incorporation, authorizing the purchase of the Fractional Interest and the execution and delivery of this Agreement and all documents to be executed and delivered by Purchaser pursuant to the terms of this Agreement, together with all trade name affidavits and other documents required by Montana law to enable Purchaser to hold title to the Fractional Interest or by the Title Company in order to effectuate Closing. Purchaser represents that at Closing Purchaser will be in good standing and authorized, as necessary, to conduct its business in Montana.

7. Partnership or Limited Liability Association. If Purchaser is a partnership, joint venture, limited liability company or other association, Purchaser shall deliver to Seller at or prior to Closing a copy of any approval or resolutions required by Purchaser’s organizational documents with respect to the purchase of the Fractional Interest and the execution and delivery of this Agreement and all documents to be executed and delivered by Purchaser pursuant to the terms of this Agreement, certified

by the appropriate representative of Purchaser, together with all registration forms, trade name affidavits, and other documents required to be filed in the office of the Montana Secretary of State, the Montana Department of Revenue, the Lake Clerk and Recorder, or otherwise required under Montana law to enable Purchaser to hold title to the Fractional Interest or by the Title Company in order to effectuate Closing. Purchaser represents and warrants that at Closing Purchaser will be in good standing and authorized, as necessary, to conduct its business in Montana.

8. Trusts. If Purchaser is a trust, Purchaser shall deliver to Seller at or prior to Closing, a copy of the Trust Agreement, certified by the appropriate representative of Purchaser, together with an Affidavit of Trustees, as required by Montana law, or, if the Trust is irrevocable, a Trust Registration Statement filed with the District Court in the appropriate county of Montana, and any other documents required to be filed or otherwise required under Montana law or by the Title Company to enable Purchaser to execute, deliver and perform this Agreement, and to purchase the Fractional Interest and to hold title to the Fractional Interest in a Trust.

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

10. Insulation of Premises. Seller and Purchaser hereby acknowledge pursuant to Paragraph 460.16 of the Federal Trade Commission Regulations regarding labeling and advertising of home insulation, that the types, thicknesses and R-Values of insulation presently anticipated to be installed in the Unit at the time of Closing shall be as set forth below:

<u>Location</u>	<u>Type of Insulation</u>	<u>Thickness</u>	<u>R-Value</u>
Exterior Walls	Bibbs	5.5"	R-23
Ceiling/Roof	Blown	20+"	R-49

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

11. Building Codes. Spaces such as attics, chase ways, areas above, below or behind finished interior surfaces of the Unit, or plenums constructed within the Project or within an individual Unit may be restricted from any alternative use by Applicable Laws, and the Governing Documents. These areas are not available for any Owner's access, improvement, or use.

12. Seller's Disclaimer. Upon completion of the Project and sale of all of the Units and all of the Fractional Interests in the Project, Seller will have no continuing part in the success or failure of the Project or the Association.

13. Other Properties. By executing this Agreement, Purchaser acknowledges that Purchaser has not relied upon any statements or representations regarding the Project, the Unit, the Fractional Interest or the nature or development of any other properties in the vicinity of the Project, including, without limitation, any representations made by Seller or any agents or employees of Seller or any other real estate agency, except for those statements and representations expressly set forth in this

Agreement. Purchaser acknowledges and agrees that neither Seller nor any of its brokers, sales representatives, agents or employees have made any representations regarding the existence, preservation or permanence of any view from the Unit, any other condominium unit, or the Project, nor have they given Purchaser any assurances whatsoever that Seller either can or will take action to restrict or control the development of any of the real property adjacent to or in the vicinity of the Unit or Project. Purchaser acknowledges that there are no express or implied easements for views or for the passage of light and air to Purchaser's Unit. The provisions of this Subparagraph shall survive Closing.

14. Access. Purchaser acknowledges that the Seller and/or the Association may grant certain easements to the public and/or adjacent property owners across certain portions of the Project. Such easements shall be depicted on the final plat of the Property, the Map or otherwise recorded against the Property. All such easements shall become Permitted Exceptions hereunder.

15. Mountain Conditions. Ownership of real property in mountain areas involves certain inherent inconveniences. These include, but are not limited to, (a) dripping water onto decks and porches from snow melt, (b) snow and ice build-up on roofs, decks and porches during winter months, and the need to remove snow and ice to prevent leaking or damage to these structures, (c) the need to maintain the internal temperature of the Unit at a minimum temperature of 60 degrees Fahrenheit in order to prevent broken pipes, (d) limitations to, or disruptions or delays in, public or private access to the Project and (e) other inconveniences arising from the sometimes severe winter conditions in the Rocky Mountains.

16. No Area or Amenity Representations. Purchaser hereby acknowledges that neither Seller nor the Seller Parties nor their respective representatives, agents or employees have made any representation upon which the Purchaser has relied regarding schools, churches, public facilities, availability of ski, golf or other recreational or community amenities or future development of the area in which the Project is located.

17. Natural Materials. Purchaser acknowledges and understands that log and wood siding and wood floors may be planned for certain portions of the Unit as part of the Plans and Specifications. Purchaser understands that the wood products that may be included as part of the Unit are natural materials subject to the laws of nature, and therefore, some warping, twisting, cracking and splitting may occur. Purchaser acknowledges that noise transference is greater for wood floors than for carpeted floors.

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

J. Mold Disclosure. There are many types of mold. Inhabitable properties are not, and cannot be, constructed to exclude mold. Moisture is one of the most significant factors contributing to mold growth. Information about controlling mold growth may be available from the Lake County extension agent or health department. Certain strains of mold may cause damage to property and may adversely affect the health of susceptible persons, including allergic reactions that may include skin, eye, nose and throat irritation. Certain strains of mold may cause infections, particularly in individuals with

suppressed immune systems. Some experts contend that certain stains of mold may cause serious and even life-threatening diseases. However, experts do not agree about the nature and extent of the health problems caused by mold or about the level of mold exposure that may cause health problems. The Centers for Disease control and Prevention is studying the link between mold and serious health conditions. Seller and Seller's agents, Purchaser's agent or property manager cannot and does not represent or warrant the absence of mold. It is Purchaser's obligation to determine whether a mold problem is present. To do so, Purchaser should hire a qualified inspector and make any contract to purchase, rent or lease contingent upon the results of that inspection. Seller or Seller's agent, who provides this mold disclosure statement, provides for the disclosure of any prior testing and any subsequent mitigation or treatment for mold, and discloses any knowledge of mold is not liable in any action based on the presence of or propensity for mold in a building that is subject to any contract to purchase, rent or lease. This disclosure is provided pursuant to the Montana Mold Disclosure Act.

K. Miscellaneous

1. Reporting of Transaction. The Title Company designated by Seller or Seller shall prepare promptly after the Closing, a form 1099-B with the Internal Revenue Service, if applicable under Paragraph 6045(e)(2) of the Internal Revenue Code, as amended. The Title Company will also prepare the real property transfer declaration required under Montana Rev. Stat. § 39-14-102, as amended from time to time.

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

3. State of Montana Withholding Requirements. Seller agrees to execute necessary documents and to comply with requirements of the State of Montana relating to the withholding of proceeds of the Purchase Price.

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

5. Governing Law. This Agreement shall be construed under the provisions of Montana law.

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

7. Severability. If any terms, covenants, or provisions of this Agreement shall be illegal or unenforceable for any reason, the same shall not invalidate any other term, covenants, or provisions, and all of the remaining terms, covenants, and provisions shall remain in full force and effect.

8. Survival. Where applicable, each provision shall survive the closing of this Agreement and shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns, including all of Purchaser's indemnification obligations and those provisions expressly stated to survive Closing in Paragraphs 3, 4, 6 and 18 of the main body of the Contract and Paragraphs C, E and I of this Addendum No. 1. However, upon payment of the Purchase Price by Purchaser, any representations or covenants made by Seller herein, other than the warranty and enforcement provisions, shall be deemed merged with the Deed.

9. Effective Date. The “**Effective Date**” of this Agreement shall be the date on which the later of Seller or Purchaser executes this Agreement.

EXHIBIT A
FLOOR PLAN, SITE PLAN AND FEATURES LIST

EXHIBIT B

**LEGAL DESCRIPTION OF PROPERTY
UNDERLYING PROJECT**

Tracts of land in Government Lot 2, Section 3, Township 22 North, Range 20 West, P.M.M., Lake County, Montana, more particularly described as Parcels "A" and "B" on Subdivision Plat No. 39