

ADDENDUM A (this “**Addendum**”)  
TO CONTRACT TO BUY AND SELL REAL ESTATE (RESIDENTIAL) (together with this  
Addendum, the “**Contract**”) for Unit \_\_\_\_\_ (the “**Unit**”) of the Velo Condominiums

**Notwithstanding anything in the Contract, the plans for the Project (the “Project Plans”), or this Addendum to the contrary, in the event of a conflict between terms in the Contract, the Project Plans, or this Addendum, the terms of this Addendum, then the Contract, then the Project Plans control, in that order. For purposes of this Addendum, capitalized terms used in this Addendum but not otherwise defined herein shall retain the meanings ascribed to such terms in the Contract. Buyer and Seller may be referred to herein as the “Parties” and each a “Party.”**

**1. THE PROJECT.** The Unit will be part of a condominium project commonly known as “Velo Condominiums” (the “**Project**”). The Project will be located on real property owned by Seller and legally described on **Exhibit A**, attached hereto and incorporated herein by reference (the “**Project Site**”). The Project will be established under a declaration of covenants and restrictions (the “**Declaration**”) and a condominium map (the “**Map**”), both of which will be recorded in the real property records of Boulder County, State of Colorado prior to closing of the sale of the Unit to Buyer (the “**Closing**”). Pursuant to the Declaration and Map, the Project Site will be divided into individual airspace units (each, a “**Condominium Unit**”), limited common elements allocated exclusively to one or more, but not all, Condominium Unit(s) (the “**Limited Common Elements**”), and general common elements (the “**Common Elements**”) owned by Velo Condominium Association, Inc. (the “**Association**”), all as determined by Seller is its sole discretion. Seller anticipates, but does not warrant, that the Project will consist of 5 buildings and 70 total Condominium Units. Notwithstanding the foregoing, Seller may, in its sole and absolute discretion, create additional Condominium Units, Common Elements, Limited Common Elements, or subdivide any Condominium Unit(s), provided, that Seller shall not build more than seventy Condominium Units within the Project. The preliminary Project Plans which depict the approximate location of the Unit are attached to this Contract as **Exhibit B** and incorporated herein by reference. The Project Plans may be amended by Seller in its reasonable discretion. Buyer acknowledges that a separate tax parcel may not be established for the Unit as of the Closing provided that Buyer shall remain solely responsible for its pro rata share of all real estate taxes and assessments applicable to the Unit, which obligation shall survive Closing.

**1.1. Covenant Restrictions.** This Unit is a [Check applicable Unit type below]:

☐ Market Rate Unit. This Unit is not part of the City of Boulder’s Permanently Affordable Housing Program; or

☐ Permanently Affordable Unit. This Unit is a part of the City of Boulder’s Permanently Affordable Housing Program. Buyer acknowledges that the Unit is COVENANT RESTRICTED pursuant to the terms of a certain covenant (the “**Covenant**”) available from the City of Boulder’s Division of Housing upon request. At Closing, Buyer shall deliver a written acknowledgement to Seller, in a form acceptable to Seller in its discretion, certifying that Buyer has reviewed the Covenant and understands the terms and conditions set forth therein concerning the limitations affecting the Unit, including, but not limited to, the use, occupancy, appreciation value, and modifications to the Unit. Notwithstanding the foregoing, Seller may cancel and terminate this Contract without penalty if Seller receives written notice from the City of Boulder’s Division of Housing that Buyer is not an Eligible Household or an eligible Buyer as defined and described by Chapter 9-13, "Inclusionary Housing," Boulder Revised Code as it may be amended or as it may be modified or clarified by regulation or guidelines.

**1.2. Seller’s Disclosures.** The following documents are, or will be, provided to the Buyer during the term of this Contract:

- a. Soils report for the Project;

- b. Colorado Geological Survey SP-43: A Guide to Swelling Soils for Colorado Homebuyers and Homeowners
- c. EPA pamphlet entitled "A Citizen's Guide to Radon;"
- d. Map, Declaration, the rules and regulations of the Association (the "**Rules**"), the bylaws of the Association (the "**Bylaws**"), and the responsible governance policies of the Association (the "**Policies**") and collectively with the Declaration, Map, Rules, and Bylaws, the "**CIC Documents**"; *provided that*, all such documents shall be considered to be draft form, subject to revision by Seller in Seller's sole discretion prior to recording such document, and thereafter in accordance with applicable law and the other CIC Documents.

Seller makes no representation of warranty of any kind with respect to any third party reports provided to Buyer pursuant to this Contract, and expressly disclaims any express or implied warranty concerning the accuracy or completeness of any information set forth in such reports. In the event Seller has not delivered any of the foregoing documents to Buyer on or before the Seller's Disclosures Deadline, Buyer shall deliver written notice to Seller requesting such documents.

**2. RESCISSION PERIOD.** Buyer shall have until the expiration of the Rescission Period to terminate this Contract by written Notice to Terminate delivered to Seller prior to the end of the Rescission Period (the "**Rescission Notice**"). If Buyer timely delivers a Rescission Notice, this Contract shall terminate and the Earnest Money shall be returned to Buyer. Seller shall not be required to proceed with construction or completion of the Unit until after the end of the Rescission Period. If Buyer does not provide a Rescission Notice within the Rescission Period, the Earnest Money deposit shall be non-refundable to Buyer and will be applied to the balance due as Purchase Price at Closing. Buyer acknowledges and agrees that Buyer is solely responsible for obtaining financing for Buyer's purchase obligations hereunder and for otherwise performing Buyer's obligations under this Contract. Seller will proceed with performance, including construction and completion of the Unit, in reliance upon Buyer's determination that Buyer is fully ready, willing and able to perform hereunder. Absent a Rescission Notice, Buyer's obligation to close and otherwise perform hereunder will not be subject to any conditions or contingencies, including, without limitation, the availability of Buyer's financing, the sale of Buyer's current residence or other property, or a satisfactory appraisal of the Unit.

**3. PARKING AND STORAGE.** [Check box(es) that apply]

☐ The Unit will be allocated, as a Limited Common Element, ☐ \_\_\_\_\_ garage(s), or ☐ \_\_\_\_\_ carport(s) (the "**Allocated Parking Space(s)**"), identified on the Project Plans as \_\_\_\_\_. Parking rights allocated hereunder will be at all times subject to the provisions of the CIC Documents.

☐ The Unit will be allocated, as a Limited Common Element, \_\_\_\_\_ storage unit(s) (the "**Allocated Storage Unit(s)**"), which Allocated Storage Unit(s) are identified on the Project Plans as \_\_\_\_\_. Storage rights allocated hereunder will be at all times subject to the provisions of the CIC Documents.

At Closing, Buyer shall deliver a written acknowledgement to Seller, in a form acceptable to Seller in its discretion, certifying that Buyer acknowledges and agrees that Buyer has read and understands the terms and conditions set forth in the CIC Documents relating to the Allocated Parking Space(s) and Allocated Storage Unit(s), including an acknowledgement of any limitations on the use thereof.

**4. CONSTRUCTION OF THE UNIT.**

**4.1. The Work.** Seller is authorized to modify final plans and make substitutions in its sole discretion to further the goal of timely and efficient completion of construction of the Unit in substantial accord with the Project Plans, including (but not limited to) the following: (a) to meet requirements of any

governmental authority having jurisdiction over the Project Site; (b) to correct errors, omissions or oversights; (c) to meet unanticipated site requirements; (d) to overcome hindrances to the expeditious completion of construction due to strikes or materials or labor shortages; (e) to make minor reallocations of electrical, plumbing, heating and similar services and equipment; and (f) changes suggested by the builder for the Project (“**Builder**”) or the Builder’s subcontractors so long as such changes do not substantially change the square footage or quality of the Unit at Seller’s discretion. 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 exact requirements of the Project Plans and such deviations or modifications are not a breach of this Contract by Seller. Seller may substitute materials, appliances, and related items of substantially equal or greater quality, at Seller’s discretion. Seller reserves the right, in Seller’s discretion, to adjust the Unit, Allocated Parking Space(s), Allocated Storage Space(s), Common Elements, or Limited Common Elements as deemed reasonably necessary. Seller and Builder have no obligation to accommodate any change orders to the Project Plans. If Seller and Builder agree to any change orders in their sole discretion, such change orders are subject to Builder and Seller “markups” and additional charges that may increase the Purchase Price, at Seller’s sole discretion, which may include, but are not limited to additional charges for scheduling delays due to such change orders.

**4.2. Personal Property.** Buyer acknowledges that Buyer is specifically cautioned against ordering any items such as drapes, built in cabinets, closet organizers or custom furniture until after exact measurements of the Unit can actually be taken. Buyer and Seller agree that Seller is not obligated to install any of Buyer’s personal property as part of this Contract. Additionally, Buyer may not install or store any personal property at the Project Site prior to Closing.

**4.3. Area of the Unit and Common Elements.** There are many different ways to measure the square footage of the Unit, Limited Common Elements, and Common Elements, such as measurements from the outside of perimeter walls or measurements from the inside of perimeter walls. Statements of approximate dimensions, floor areas, ceiling heights or volumes (collectively, the “**Area**”) of the Unit, Limited Common Elements, of Common Elements may be made in the Project Plans, marketing materials or other items reviewed by Buyer. The Declaration and Map may calculate the Area of the Unit, Limited Common Elements, or any Common Elements, in a manner which differs from the method of measurement reflected in the Project Plans, marketing materials or other items reviewed by Buyer, including any informational floor plans that may have been provided to Buyer or included on any website for the Project. Buyer expressly acknowledges and agrees that Buyer is not relying on any statements of the Area of the Unit, the Limited Common Elements, or Common Elements, in any form, in entering into this Contract, and that Seller’s only obligation in this regard is to deliver the Unit, Limited Common Elements, and Common Elements in substantial compliance with the Project Plans as provided above. Buyer will have no right to rescind this Contract, nor will Buyer be entitled to any claim for breach of this Contract or adjustment of the Purchase Price, on account of alleged or actual variations in the final square footage, layout or floor plan of the Unit as constructed versus that set forth in the Project Plans. Buyer will accept the Unit, Limited Common Elements, and Common Elements as constructed so long as the Unit as constructed is not materially inconsistent with the Project Plans and otherwise in accordance with the other terms of this Contract. Buyer further acknowledges and agrees that SELLER HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, OBLIGATIONS OR LIABILITIES CONCERNING THE AREA OF THE UNIT, THE LIMITED COMMON ELEMENTS, THE COMMON ELEMENTS, AND THE PROJECT; BUYER HEREBY ACCEPTS SUCH DISCLAIMER, AND AGREES THAT SELLER AND ITS AFFILIATES WILL NOT HAVE ANY OBLIGATION OR LIABILITY FOR, AND WAIVES ANY CLAIM AGAINST SELLER AND ITS AFFILIATES, AND THEIR CONTRACTORS AND AGENTS, RELATED TO ANY DISCREPANCIES RELATED TO THE AREA OF THE UNIT, THE LIMITED COMMON ELEMENTS, THE COMMON ELEMENTS AND THE PROJECT.

**4.4. Variation in Materials.** Buyer acknowledges that certain materials utilized in the construction of the Project and the Unit, including, but not limited to, brick, stone, roofing, ceramic tile, carpeting, wood panels, and paint may vary in color, size or texture. Buyer acknowledges that variances may also occur between materials used in the construction of the Unit and samples of materials. Buyer specifically agrees that any variances in the color, textures or size of such materials installed in the Unit, or any variances from similar materials or furniture, fixtures or appliances shown as samples, shall not constitute a defect in the materials or in workmanship or be a failure of Seller to build in substantial conformance with the Project Plans.

Buyer acknowledges that there are no individual “upgrades” available or substitutions for the anticipated materials and specifications. Seller may provide information to Buyer regarding the following packages, including a description of the materials associated with each such package, and in the event Buyer has received such information, Buyer hereby selects the following package for the Unit:

- ☐ Light Package (no additional cost)
- ☐ Dark Package Upgrade
- ☐ Wow Package Upgrade

If Buyer selects the Wow package, the Purchase Price shall be increased by \$\_\_\_\_\_, and Buyer shall make an additional Earnest Money deposit in the amount of \$\_\_\_\_\_.

If Buyer selects the Dark package, the Purchase Price shall be increased by \$\_\_\_\_\_, and Buyer shall make an additional Earnest Money deposit in the amount of \$\_\_\_\_\_.

**4.5. Promotional Materials.** The parties expressly agree that any brochures, website information or other materials regarding the Unit or the Project containing artist’s renditions, photographs, dimensions or drawings of any nature are not binding and are for demonstrative and illustrative purposes only and may not be exactly duplicated. Grades, open areas, elevations, dimensions, and the location of walks, stairs, plantings, and other landscape features, if any, and other interior and exterior features of the Unit and the Project may not precisely conform to those including without limitation any promotional material supplied by Seller. Certain furniture, furnishings, wall and floor coverings, light fixtures, bookcases and other built-ins, and other decorative features and the like, are for display purposes only and are not considered a part of the Unit for the purposes of this Contract. Further, the location of wall switches, thermostats, chases, plumbing, electrical outlets and similar items may vary. Any floor plans, sketches or drawings shown to Buyer other than those which are a part of the final recorded Map and building plans on file with the local governing authority are for display purposes only and may not be exactly duplicated. Buyer acknowledges that any promotional materials provided by Seller to Buyer are solely for display and marketing purposes and do not constitute a warranty or representation from Seller that the Unit or the Project will contain those same items or that the dimensions of rooms in the Unit or Project will be the same as in the promotional materials. Buyer further acknowledges and agrees that trees and landscaping located on the Project Site may be removed to accommodate the construction of the Project. Seller does not guaranty or warrant that the Project Site will include trees or landscaping at the time of Closing.

**4.6. Builder’s Schedule.** Any schedules are estimates only, and construction may be delayed by permit and land use issues, changes, weather, material shortages or unavailability, acts of nature, labor disputes, unavoidable casualties, or any other delays beyond the control of Seller.

**4.7. No Entry; Possession and Occupancy.** Buyer will not enter, and shall not allow any Buyer Party (defined below) to enter, onto the Project Site or Unit without Seller’s written consent. Any entry onto the Project Site or Unit is at Buyer’s sole risk. Buyer understands and acknowledges that the construction site of the Project is extremely dangerous. In the event Buyer, or anyone on behalf or for benefit of Buyer, enters upon the construction site for the Project, Buyer hereby waives all claims against

and agrees to indemnify and hold Seller and Builder, and their respective officers, shareholders, directors, members, managers, employees and agents, harmless from all damages, costs and expenses, including attorneys' fees, that may be incurred as a result of injuries to person or property that may occur as a result of entry on the Project Site by Buyer, its agents, brokers, consultants, contractors, employees, appointees, inspectors, or anyone acting or purporting to act by or on behalf of Buyer (each, a "**Buyer Party**" and collectively, the "**Buyer Parties**"). The Buyer Parties must provide an executed waiver in the form as provided by Seller prior to entering onto the Project Site. Buyer shall not occupy or utilize the Unit or the Project Site, or any part thereof, for any purpose prior to Closing. After Closing, Buyer shall make the Unit available to Builder and its subcontractors Monday through Friday between 8:00 a.m. and 5:00 p.m. for purposes of completion of the Punch List, if applicable (as defined below). Buyer understands and agrees that construction activity at the Project Site may continue after the Closing and occupancy of the Unit by Buyer. Such construction activity may cause inconvenience for Buyer, including, but not limited to, noise, dust, vibration, and transportation of labor, materials, and equipment. **Buyer shall have no contact with Builder or Builder's subcontractors, contractors or suppliers prior to Closing. BUYER AGREES TO HOLD SELLER HARMLESS AND COVENANTS NOT TO BRING ANY ACTION AGAINST SELLER FOR ANY INJURIES (PERSONAL OR PROPERTY) SUFFERED BY BUYER WHILE VISITING THE PROJECT SITE. Buyer shall have no right to modification, occupancy, or possession of the Unit, or entry thereon, until Closing hereunder.**

**4.8. Buyer's Property Inspection Opportunities.** Buyer shall have an opportunity to observe and inspect the Project Site, Unit and progress of construction upon completion of the following construction benchmarks: (1) Completion of framing; (2) Completion of drywall; and (3) Completion of the Unit, provided that Buyer: (i) requests an appointment from Seller in writing, and (ii) Buyer and any Buyer Parties shall be accompanied by Seller or Seller's representative at all times. Buyer agrees not to access the Project Site unless accompanied by Seller or Seller's representative, and that failure by Buyer or any Buyer Party to comply with this requirement will constitute a default such that Seller will have a right to terminate the Contract, retain the Earnest Money, recover a \$5,000.00 fee as liquidated damages and seek all remedies available under this Contract. Buyer and Seller acknowledge that the damages to Seller as a result of Buyer or a Buyer Party accessing the Project Site unaccompanied by Seller or Seller's representative may not be susceptible of precise determination, and that the Earnest Money plus \$5,000.00 is a reasonable approximation of such damages, which are liquidated damages and not a penalty. Buyer shall be responsible for all inspection-related expenses incurred. Buyer shall immediately pay all costs and expenses to repair damage to the Unit, Project Site, Limited Common Elements, and the Common Elements resulting from any Buyer Party's entry on the Project Site. Failure to pay upon demand any expense incurred under this section shall result in Buyer's default under the Contract. Buyer's obligations under this Section 4.8 shall survive the expiration or earlier termination of the Contract.

**5. FINANCING.** Seller does not warrant, and Buyer hereby acknowledges, the suitability of the Unit or Project Site to qualify for any financing or loans. As a condition of Seller's acceptance of this Contract, Buyer will demonstrate to Seller its ability to provide Good Funds at Closing by: (i) delivering proof of Good Funds in the form of a prequalification letter or other documentation acceptable to Seller in its sole discretion no later than the Prequalification Deadline; and (ii) providing Seller with written confirmation that a loan application has been submitted by the New Loan Application Deadline. Buyer acknowledges and agrees that Buyer is solely responsible for obtaining financing for Buyer's purchase obligations and for otherwise performing Buyer's obligations under this Contract. Buyer's obligation to close and otherwise perform under this Contract will not be subject to any conditions or contingencies, including, without limitation, the availability of Buyer's financing, the sale of Buyer's current residence or other property, or a satisfactory appraisal of the Unit. Notwithstanding anything to the contrary herein, if Buyer uses a lender preferred by Seller (a "**Preferred Lender**") as Buyer's lender, Buyer shall have the right, one time only, to extend the Closing Date by up to 5 business days due to any financing conditions that may arise; provided, however, that Buyer must provide written notice to Seller, and Buyer and Seller shall execute an amendment

to the Contract memorializing such extended Closing Date. Seller represents that it receives no compensation if Buyer elects to use a Preferred Lender. Seller will provide a Preferred Lender list to Buyer on or before MEC.

## **6. COMPLETION/CLOSING.**

**6.1. Temporary and Final Certificates of Occupancy.** Buyer hereby accepts that Seller may only be able to provide a temporary/conditional certificate of occupancy as opposed to a final certificate of occupancy or its equivalent (each a “**Certificate of Occupancy**”) prior to Closing, and in such event, Seller shall have one year from Closing to provide Buyer a final Certificate of Occupancy or its equivalent issued by the applicable governing authorities. If a Certificate of Occupancy (which may be conditional or temporary) has not been issued for the Unit on or before the latter of: (1) 24 months after the issuance of a building permit; or (2) 30 months after MEC, and the failure to obtain such Certificate of Occupancy is not the result of the occurrence of an event set forth in Section 6.2 of this Addendum; then Buyer may issue to Seller a written Notice to Terminate. If a Certificate of Occupancy (which may be conditional or temporary) has not been issued for the Unit within 30 days of such Notice to Terminate, then unless Buyer has withdrawn the Notice to Terminate in writing within such 30 day period, the Contract will terminate at the expiration of such 30 days and all Earnest Money, without interest, shall be returned to Buyer together with the sum of \$100.00 as Buyer’s sole and exclusive remedy, notwithstanding any other provision of the Contract to the contrary. Buyer shall not be entitled to seek specific performance under this Contract, nor will Buyer be entitled to receive special, exemplary, consequential, incidental, or punitive damage.

**6.2. Seller’s Inability to Perform.** In the event that Seller is unable to perform under this Contract by reason: (1) of Seller’s inability to obtain building permits, Certificates of Occupancy, or other governmental approvals upon terms acceptable to Seller in Seller’s sole discretion, (2) that the Unit cannot reasonably be constructed in conformity with governmental or engineering requirements, or (3) of any other fact, condition or circumstance outside the reasonable control of Seller or Builder; then Seller shall be entitled to terminate this Contract by providing Buyer written notice within 10 days following Seller’s knowledge of any of the criteria in this Section 6.2, in which event the Earnest Money shall be returned to Buyer without interest, and Seller and Buyer will be discharged from all duties and performance hereunder.

**6.3. Completion/Closing Date.** Closing shall not occur until substantial completion of the Unit, as determined by Seller in its reasonable discretion (“**Substantial Completion**”), provided that Substantial Completion shall in all cases be deemed to occur upon the issuance of a Certificate of Occupancy for the Unit, which may be conditional or temporary. No more than 10 business days prior to Substantial Completion, Seller will deliver written notice to Buyer setting forth the date of Closing (the “**Closing Date**”) and Buyer shall promptly initiate any further actions necessary to prepare for the Closing on such Closing Date. If the written notice does not specify a Closing Date, the Closing Date shall be 10 business days following the date of such notice. At Closing, Buyer shall pay the full balance of the Purchase Price to Seller, and the Parties shall timely execute such documents and take such actions as are reasonably necessary to carry out the terms of this Contract. There will be no escrows at Closing for Punch List items or otherwise. Closing shall be deemed acceptance of the Unit, the Limited Common Elements, and Common Elements, as constructed, except as set forth on the Punch List. This Section 6.3 shall survive the Closing and delivery of the Deed.

**6.4. Closing Date Extension or Acceleration.** Seller may, at its sole election, extend the Closing Date up to 120 days, with at least 5 days’ written notice to Buyer prior to the Closing Date to accommodate any of the following: Force Majeure Delays (defined below); labor and material procurement delays; construction delays; and permits, approvals or inspection delays.

**6.5. Temporary Housing.** Under no circumstances will Seller be responsible for temporary housing, furniture storage, moving expenses, mortgage-rate lock extension fees, or other costs, fees, or expenses related in any way to the timing of the Closing.

**6.6. Final Inspection & Punch Lists.** Buyer acknowledges Closing may be required prior to the final completion of all items on the Punch List (defined below) and other work at the Project Site. Prior to Closing, at a time designated by Seller, Buyer shall inspect the Unit together with Seller and Builder and prepare a punch list (the “**Punch List**”) of items remaining to be completed or repaired as agreed between Seller and Buyer, and signed by each of Seller and Buyer. The Punch List may not be amended except by the written consent of both Buyer and Seller, each in their sole and absolute discretion. The existence of the Punch List and items thereon shall not affect Buyer’s obligation to close and to pay the full Purchase Price at the Closing if the Closing Date occurs prior to the completion of the items on the Punch List.

Seller or Builder, in Seller’s discretion, will either complete the Punch List before Closing, or will complete the Punch List within the 120-day period following Closing to the extent reasonably possible and subject to weather, material shortages or unavailability, acts of nature, labor disputes, casualty, or any other delays beyond the control of Seller (“**Force Majeure Delays**”). If Buyer fails to schedule a walk-through inspection or fails to participate in a scheduled walk-through inspection of the Unit prior to Closing, Buyer will be deemed to have waived each of Buyer’s right to a walk-through inspection of the Unit and Buyer’s right to the preparation of the Punch List, and Buyer will be deemed to have accepted the each of the Unit and the Limited Common Elements in its respective condition as of Closing.

**6.7. Limitations on Attendance at Walk-Through Inspection.** Buyer may have no more than three people participate in the walk-through inspection, one of which must be Buyer. Subject to the foregoing sentence, Buyer may, at its option, be accompanied by a professional residential inspector during the walk-through inspection, subject to Seller’s construction schedule. If Buyer is an entity, Buyer may designate one person to act as “Buyer” for purposes of the walk-through inspection. If, subsequent to the walk-through inspection, Buyer sells or conveys the Unit, Seller will have no obligation to make any additions to, or otherwise alter or modify, the Punch List.

**6.8. Delay.** In the event Buyer fails to close on the Closing Date, and the Closing Date is not extended pursuant to this Contract, the Purchase Price will be increased by \$500.00 per day for each calendar day of delay to cover Seller’s carry costs for the Unit, including, but not limited to, Seller’s financing expenses, property taxes, insurance costs, and association fees.

**6.9. Permitted Exceptions.** On the expiration of the Rescission Period, Buyer shall be deemed to have accepted the condition of title to the Unit as disclosed by the Title Commitment, Off-Record Title Matters, and any Survey as satisfactory, and to have waived any objection thereto. As of Closing, Buyer agrees that the following documents shall not be deemed to render title to the Unit unmerchantable: (i) the CIC Document(s); (ii) any Covenant and any amendments thereto, whether or not such Covenant encumbers the Unit; and (ii) any documents recorded by Seller concerning the Declaration, the Map, the Association, the Project, or other Condominium Units.

**7. HOA ASSESSMENTS AND CAPITAL RESERVE.** Buyer acknowledges that at Closing, Buyer shall fund a portion of the Association’s capital reserve account equal to two (2) months’ worth of the monthly condominium assessment fees for the Unit, for the benefit of the Association, and in accordance with the Association’s budget. Seller estimates as of the date of this Contract that the Assessments will be approximately \$\_\_\_\_\_ per month. Buyer acknowledges that this estimate of Association Assessments is solely an estimate, which is subject to change upon completion of an estimated annual budget for the Association.

## **8. WARRANTIES; DISCLAIMERS; LIABILITY; ARBITRATION.**

**8.1. EXCEPT AS OTHERWISE REQUIRED BY APPLICABLE LAW, AND EXCEPT FOR THE WARRANTIES AS TO TITLE, IF ANY, SET FORTH IN THE DEED DELIVERED TO BUYER AT CLOSING, BUYER'S WARRANTY IS PROVIDED BY BUILDER ONLY UNDER THE BUILDER'S WARRANTY, IF APPLICABLE (THE "BUILDER'S WARRANTY"). SELLER MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED OR BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO THE PROJECT SITE OR THE UNIT OR THE QUALITY, PHYSICAL CONDITION, IMPROVEMENTS ON OR TO, FOUNDATIONS OR STRUCTURAL COMPONENTS, OR VALUE OF THE PROJECT SITE OR THE UNIT, ANY LOCAL, STATE, OR FEDERAL LAWS OR REGULATIONS, OR THE POTENTIAL FOR INCOME FROM OR EXPENSES OF THE PROJECT SITE OR THE UNIT, OTHER THAN AS REQUIRED PURSUANT TO APPLICABLE LAW. BUYER AGREES THAT SELLER IS NOT LIABLE OR BOUND BY, AND BUYER HEREBY WAIVES ALL CLAIMS RELATING TO, ANY GUARANTEES, PROMISES, STATEMENTS, REPRESENTATIONS, OR INFORMATION PERTAINING TO THE PROJECT SITE AND THE UNIT MADE OR FURNISHED BY SELLER OR BY ANY REAL ESTATE AGENT, BROKER, EMPLOYEE, MANAGER, MEMBER, OR OTHER PERSON OR ENTITY REPRESENTING OR PURPORTING TO REPRESENT SELLER. BUYER HEREBY RELEASES SELLER FOR ANY CLAIMS BASED UPON ANY EXPRESS OR IMPLIED WARRANTY OF HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. BUYER ALSO AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS, INCLUDING PAYMENT OF SELLER'S REASONABLE ATTORNEYS' FEES AND COSTS, IN CONNECTION WITH ANY CLAIMS MADE OR ASSERTED BY BUYER OR ITS SUCCESSORS OR ASSIGNS INCONSISTENT WITH THIS SECTION. THIS SECTION WILL SURVIVE CLOSING.**

**8.2. Manufacturer Warranties; Builder's Warranty.** To the extent they are assignable, Seller hereby assigns to Buyer the manufacturer's warranties on all appliances, equipment and "**Consumer Products**" (defined below) installed in the Unit. Buyer should follow the procedure set forth in the applicable warranty if a defect appears in any appliance, item or equipment, or other Consumer Product. The following are examples of "Consumer Products", although other items in the Residence may also be Consumer Products: refrigerator, trash compactor, range, dishwasher, garbage disposal, air conditioner, furnace, hot water heater, clothes washer and dryer, and thermostat. (Note: the Residence may not contain any or all of these items). Seller further agrees to assign the Builder's Warranty applicable to the Unit, if any, to Buyer upon Closing.

**8.3. Mandatory Arbitration.** Notwithstanding anything in the Contract or this Addendum to the contrary, any dispute, controversy or claim arising out of or relating to the Contract, with the exception of Construction Defect Claims (defined below) which shall be governed by Section 8.4 below, shall be first mediated in accordance with Section 23 of the Contract, and, if necessary, thereafter will be settled by arbitration administered by the American Arbitration Association ("**AAA**") under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Venue for the arbitration shall be in the City of Boulder, State of Colorado, and the prevailing party, as determined by the arbitrator, shall be entitled to recover its costs and reasonable attorney's fees.

**8.4. Construction Defect Claims.** Except as otherwise required by applicable law, the following procedures shall govern all claims, asserted by Buyer, or by an Association on behalf of Buyer, for damages or other relief arising out of any alleged defect in the design or construction of any improvement that constitutes part of the Project, Project Site, any Condominium Unit, or the Unit (each such claim, a "**Construction Defect Claim**"):

**8.4.1. Notice.** If Buyer (hereafter “**Claimant**”), seeks to assert any Construction Defect Claim, Claimant shall notify Seller and Builder and any contractor and subcontractor against whom such Construction Defect Claim is directed (hereafter “**Respondent(s)**”), in writing, sent by certified mail, return receipt requested, or personal service, stating plainly and concisely (i) the nature of the Construction Defect Claim, including a detailed description of the alleged defects, the persons involved and Respondent’s role in the Construction Defect Claim; (ii) the legal basis of the Construction Defect Claim (i.e., the legal theory or authority out of which the Construction Defect Claim arises); (iii) the proposed remedy; and (iv) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Construction Defect Claim (the “**Construction Defect Notice**”). A Construction Defect Notice that is sent by a Claimant in conformity with the “notice of claim” requirements of C.R.S. § 13-20-801 et seq., also known as the Construction Defect Action Reform Act (“**CDARA**”), shall be deemed to qualify as a Construction Defect Notice under this Section 8.4.

#### **8.4.2. Negotiation and Mediation.**

a. In addition to satisfying the process described in Section 8.4.1 above, Claimant shall provide Seller with full access to the Project Site to inspect the alleged Construction Defect(s). Furthermore, Claimant and Respondent(s) (collectively, hereinafter the “**Parties**”) shall make every reasonable effort to meet in person and confer for the purpose of resolving the Construction Defect Claim by good faith negotiation.

b. If the Parties do not resolve the Construction Defect Claim within 30 days after the date of the Construction Defect Notice (or within such other period as may be agreed upon by the Parties in writing), Claimant shall have 30 additional days to submit the Construction Defect Claim to mediation administered by the AAA under its Construction Industry Mediation Procedures or, if the Parties agree, to an independent agency providing dispute resolution services in the Denver/Boulder metropolitan area.

c. If Claimant does not submit the Construction Defect Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Construction Defect Claim, and Respondent(s) shall be released and discharged from any and all liability to Claimant on account of such Construction Defect Claim; provided, nothing herein shall release or discharge Seller from any liability to any person other than Claimant.

#### **8.4.3. Final and Binding Arbitration.**

a. Claimant shall have until 150 days following service of the Construction Defect Notice to submit the Construction Defect Claim to arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. Venue for the arbitration shall be in the City of Boulder, Colorado. If not timely submitted to arbitration, or if Claimant fails to appear for the arbitration proceeding, the Construction Defect Claim shall be deemed abandoned, and Seller shall be released and discharged from any and all liability to Claimant arising out of such Construction Defect Claim; provided, nothing herein shall release or discharge Seller from any liability to persons other than Claimant.

b. This Section 8.4.3 is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Colorado. Such agreement to arbitrate and all terms relating thereto in this Section 8.4 (including, without limitation, restrictions on a Claimant’s right to damages) shall apply, without limitation, to any “action” as defined in § 802.5(1) of CDARA. The arbitration decision and the award, if any (the “**Decision**”), shall be final and binding, and judgment may

be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Colorado.

**8.4.4. Allocation of Costs of Resolving Claim.** Each Party shall share equally all fees, expenses and charges payable to the mediator(s) and all fees, expenses and charges payable to the arbitrator(s) and the arbitration firm for conducting the arbitration proceeding. Under no circumstances, however, shall any Party be entitled to recover any of its attorneys' fees, expenses or other mediation or arbitration costs (except to the extent specifically provided under the Act), from any other Party. **BY CLOSING ON THE UNIT AND AS A MEMBER OF THE ASSOCIATION, BUYER ACKNOWLEDGES AND AGREES THAT BUYER AND THE ASSOCIATION HAVE WAIVED AND SHALL BE DEEMED TO HAVE WAIVED THE RIGHT TO ANY AWARD OF ATTORNEYS' FEES OR EXPENSES (EXCEPT AS SPECIFICALLY PROVIDED UNDER THE ACT) IN CONNECTION WITH THE ARBITRATION OF A CLAIM UNDER THIS SECTION 8.4.** The limitation described above on awarding attorneys' fees and expenses shall not apply to enforcement actions undertaken pursuant to Section 8.4.6 below or any other provision of this Contract.

**8.4.5. Limitation on Damages.** Except as expressly provided to the contrary under CDARA, the Colorado Consumer Protection Act, or other applicable law, Claimant shall not be entitled to receive any award of damages in connection with the arbitration of a Construction Defect Claim other than Buyer's actual damages, if any, and Buyer shall be deemed to have waived Buyer's respective rights to receive any damages in a Construction Defect Claim other than actual damages, which waiver shall be deemed to include, without limitation, attorneys' fees and expenses, special damages, consequential damages, incidental damages, and punitive or exemplary damages. **BY CLOSING, BUYER KNOWINGLY AND WILLINGLY ACKNOWLEDGES AND AGREES THAT BUYER HAS WAIVED AND SHALL BE DEEMED TO HAVE WAIVED, IN CONNECTION WITH THE ARBITRATION OF ANY CONSTRUCTION DEFECT CLAIM UNDER SECTION 8.4.3, THE RIGHT TO ANY AWARD OF CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR OTHER NON-COMPENSATORY DAMAGES OR SIMILAR DAMAGES, INCLUDING ALL DAMAGES FOR EMOTIONAL DISTRESS, WHETHER FORESEEABLE OR UNFORESEEABLE AND REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON (BUT NOT LIMITED TO) CLAIMS ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY OR CONDITION, BREACH OF CONTRACT, VIOLATION OF BUILDING CODES (LOCAL, STATE OR FEDERAL), CONSTRUCTION OR DESIGN DEFECTS, MISREPRESENTATION OR NEGLIGENCE OR OTHERWISE. BY CLOSING ON THE UNIT, BUYER ACKNOWLEDGES AND AGREES THAT THE TERMS OF SECTION 8.4 ARE A SIGNIFICANT INDUCEMENT TO SELLER'S WILLINGNESS TO DEVELOP AND SELL THE UNIT AND ALL OTHER CONDOMINIUM UNITS AND THAT IN THE ABSENCE OF THE PROVISIONS CONTAINED IN THIS SECTION 8.4, SELLER WOULD HAVE BEEN UNABLE AND UNWILLING TO DEVELOP AND SELL THE UNIT FOR THE PRICE PAID BY BUYER. BY CLOSING ON THE UNIT, BUYER ACKNOWLEDGES AND AGREES THAT THE TERMS OF THIS SECTION 8.4 LIMIT ITS RIGHTS WITH RESPECT TO THE RIGHTS AND REMEDIES THAT MAY BE AVAILABLE IN THE EVENT OF A POTENTIAL CONSTRUCTION DEFECT CLAIM AFFECTING THE PROJECT OR ANY PORTION THEREOF, INCLUDING THE UNIT.**

**8.4.6. Enforcement of Resolution.** If the Parties agree to a resolution of any Construction Defect Claim through negotiation or mediation in accordance with Section 8.4.2 above, and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with a Decision, then any other Party may file suit or initiate proceedings to enforce such agreement or Decision without the need to again comply with the procedures set forth in this Section 8.4. Notwithstanding the terms of Section 8.4.4, in such event, the Party taking action to enforce the agreement or Decision shall be

entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties who shall be jointly and severally liable) all costs incurred in enforcing such agreement or Decision including, without limitation, attorneys' fees and court costs.

**8.4.7. Multiple Party Claims.** Multiple party disputes or claims not consolidated or administered as a class action pursuant to the following sentence will be arbitrated individually. Only upon the written request of all parties involved, but not otherwise, the arbitrator may: (i) consolidate in a single arbitration proceeding any multiple party claims that are substantially identical, and (ii) arbitrate multiple claims as a class action.

**8.4.8. Survival.** The terms and provisions of this Section 8.4 inure to the benefit of Seller, its successors and assigns, are enforceable by Seller, and shall survive Closing.

## **9. SPECIAL CONDITIONS DISCLOSURES AND RELEASE.**

**9.1. Disclosure of Potable Water Source.** Seller discloses that the source of potable water for the Residence is from the City of Boulder. The Water Provider for the Residence can be contacted at Mailing Address: City of Boulder Utility Billing PO Box 2140, Boulder CO 80306-2140 Physical Address: 1777 Broadway, Boulder, CO 80302, Phone Number 303-441-3200 Website: <https://bouldercolorado.gov/services/water-utilities>.

**9.2. Radon Gas Disclosure and Release.** Seller hereby notifies Buyer, and Buyer acknowledges, that the Colorado Department of Health and the United States Environmental Protection Agency (the "EPA") have detected elevated levels of naturally occurring radon gas in certain residential structures throughout Colorado. The EPA has voiced concerns about the possible adverse effects on human health from long-term exposure to high levels of radon gas. Buyer is hereby advised that Seller is not qualified, and has not undertaken, to evaluate this very complex and constantly changing issue. Seller is under no obligation to control, limit, mitigate radon gas levels in the Unit, or to achieve any radon gas level in the construction thereof. Seller makes no representation or warranty, express or implied, concerning the presence or absence of radon in the soils beneath, within or adjacent to the Unit prior to, on, or after the Closing. Seller recommends that Buyer, at Buyer's sole expense, conduct an investigation and consult with such experts as Buyer deems appropriate, in order to determine the level of radon gas in the Unit. Nothing in such investigation shall relieve Buyer of any obligations hereunder, and Buyer agrees that Buyer's recourse is to install any desired radon mitigation at Buyer's expense after Closing. As of the Closing, Buyer acknowledges receipt of a copy of the EPA's pamphlet titled "A Citizen's Guide to Radon". Buyer assumes all risks related to radon and releases Seller from any and all liability with respect to radon gas and the matters discussed in this Section 9.1.

**9.3. Mold Disclosure and Release.** Mold is a naturally occurring fungus that can develop in or around residential structures. Mold may cause adverse health consequences and some persons are allergic to molds. Mold can develop naturally even in normal conditions in properly constructed residences. Seller cannot prevent or control the conditions that may result in mold, and mold may develop or be present in the Unit at or after Closing. Buyer is advised that Seller does not, in this Contract, or otherwise, warrant against the development or presence of mold or otherwise undertake to preclude the development or presence of mold. Buyer is advised to inspect the Unit prior to Closing and on a regular basis after Closing, in particular, in areas where moisture may be present and ventilation is limited, including basements, crawl spaces, utility rooms and other similar areas. Buyer assumes all risks related to mold and any damage or loss resulting therefrom and releases Seller from any and all liability with respect to mold in the Unit, or the consequences thereof. Person to person, there are no federal or Colorado state standards concerning acceptable levels of exposure to mold or fungi. In addition, materials within the Unit – including paints, carpets, plastics, tiles, glues and other materials – may release aerosol chemicals into the indoor air environment. Buyer agrees to make its own independent evaluation or decide in consultation with other experts whether to further

investigate the issue of molds, fungi or other indoor environmental contaminants as they may affect the Unit. **BUYER ACKNOWLEDGES THAT SELLER HAS MADE NO REPRESENTATIONS OR WARRANTIES EXPRESS OR IMPLIED, CONCERNING THE PRESENCE, ABSENCE OR LEVEL OF MOLD, FUNGI OR OTHER INDOOR ENVIRONMENTAL CONTAMINANTS WITHIN THE UNIT PRIOR TO, ON OR AFTER CLOSING. BUYER FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, HEREBY RELEASES SELLER FROM ANY AND ALL LIABILITY AND CLAIMS WITH RESPECT TO MOLDS, FUNGI OR OTHER INDOOR ENVIRONMENTAL CONTAMINANTS. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING.**

**9.4. Electromagnetic Fields Disclosure and Release.** All power lines and electrical appliances that draw electric current have electromagnetic fields (“EMF”) around them. The Unit may be located near power lines that generate EMF. Seller has no expertise or information about the detection or effects of EMF and does not monitor research efforts regarding EMF. Buyer agrees to make its own independent evaluation or decide in consultation with other experts whether to further investigate the issue of EMF as it may affect the Unit. **BUYER ACKNOWLEDGES THAT SELLER HAS MADE NO REPRESENTATIONS OR WARRANTIES EXPRESS OR IMPLIED, CONCERNING THE PRESENCE, ABSENCE OR LEVEL OF EMF WITHIN THE UNIT PRIOR TO, ON OR AFTER CLOSING. BUYER FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, HEREBY RELEASES SELLER FROM ANY AND ALL LIABILITY AND CLAIMS WITH RESPECT TO EMF WITHIN THE UNIT. THE PROVISIONS OF THIS SECTION SHALL SURVIVE CLOSING.**

**9.5. Megan’s Law Disclosure.** Pursuant to applicable law, information about specified registered sex offenders is made available to the public via an internet web site maintained by the Colorado Bureau of Investigation at [sor.state.co.us](http://sor.state.co.us). Depending on an offender’s criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP code in which the offender resides. Seller has not and will not check for any offenders in this area. Should Buyer wish to check for offenders in the area in or around the Project Site that is of concern to Buyer, please refer to such internet web site.

**9.6. Soils Report.** As of the Closing, Buyer acknowledges receipt of the soils report for the Project, and A Guide to Swelling Soils for Colorado Homebuyers.

**9.7. Disclosure - Common Interest Community.**

**9.7.1. DISCLOSURE:** THE UNIT IS OR WILL BE LOCATED WITHIN A COMMON INTEREST COMMUNITY, AS DEFINED UNDER COLORADO LAW, SUBJECT TO THE CIC DOCUMENTS AFFECTING THE UNIT. BUYER, AS THE OWNER OF THE UNIT, WILL BE REQUIRED TO BE A MEMBER OF THE ASSOCIATION AND WILL BE SUBJECT TO THE BYLAWS, RULES, AND POLICIES OF SUCH ASSOCIATION, AND ALL OTHER CIC DOCUMENTS, WHICH WILL IMPOSE FINANCIAL OBLIGATIONS UPON BUYER AS THE OWNER OF THE UNIT, INCLUDING AN OBLIGATION TO PAY GENERAL ASSESSMENTS AND SPECIAL ASSESSMENTS OF THE ASSOCIATION (THE “ASSESSMENTS”). IF BUYER, AS THE OWNER OF THE UNIT, DOES NOT PAY THE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE UNIT AND SELL IT TO PAY THE DEBT. THE CIC DOCUMENTS MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE UNIT WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. BUYER SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF ALL ASSOCIATIONS GOVERNING THE PROJECT. BUYER SHOULD CAREFULLY READ ALL CIC DOCUMENTS APPLICABLE TO THE UNIT AND THE PROJECT.

**9.7.2. Common Interest Community Documents:** Seller will deliver proposed drafts of the Declaration and Bylaws to Buyer on or before the Association Documents Deadline. If Buyer objects to the terms of any CIC Documents so delivered, Buyer may terminate this Contract by written notice of termination delivered to Seller on or before the Association Documents Termination Deadline. Seller reserves the right to modify any CIC Documents prior to Closing, in its reasonable discretion, and no later than the Seller's Disclosures Deadline, Seller will provide to Buyer a copy of all final versions of the CIC Documents, including all modifications to prior drafts. In the event any modification to the CIC Documents has a direct, material impact upon the Unit, or Buyer is materially prejudiced by such modification, Buyer may terminate this Contract by written notice of termination delivered to Seller within 5 days of the delivery of such modifications to Buyer. In the event of Buyer's termination under this Section 9.6.2, all Earnest Money shall be refunded to Buyer. At Closing, Buyer shall deliver a written acknowledgement to Seller, in a form acceptable to Seller, in its discretion, certifying that Buyer will accept the Unit subject to the CIC Documents, and that Buyer has read and understands all terms and conditions set forth in the CIC Documents.

**9.7.3. Off-Record Title.** Off-Record Matters shall not be deemed to include the CIC Documents.

## **10. BUYER SITE ACKNOWLEDGMENTS, ADDITIONAL.**

**10.1. View Impairment/Privacy.** Buyer understands and agrees that Buyer may be disturbed by the noise, commotion, and other unpleasant effects of nearby construction activity, noise from adjacent properties, and other noise impacts based on the location of the Unit and the Project Site, and that Buyer may be impeded in using portions of the Project Site by that activity. Demolition or construction of buildings and other structures within the immediate area or within the view lines of any Condominium Unit or the Unit or of any part of the Project Site may block, obstruct, shadow or otherwise affect views, which may currently be visible from the Unit or from other areas within the Project Site. Accordingly, Buyer hereby agrees to release Seller and every affiliate and person related or affiliated in any way with Seller from and against any and all losses, claims, demands, damages, costs and expenses of whatever nature or kind, including attorney's fees and costs, including those incurred through all arbitration and appellate proceedings, related to or arising out of any claim against Seller or Seller's affiliates related to views. As a result of the foregoing, there is no guarantee of view, security, privacy, location, design, density or any other matter, except as may be otherwise set forth herein. The CIC Documents do not contain any provision intended to protect the view from the Unit or the Project Site. This Section 10.1 shall survive the Closing and delivery of the deed.

**10.2. Outstanding Dedications.** All or a portion of the Project Site may be subject to an outstanding dedication to one or more governmental authorities. A governmental authority can accept irrevocable dedications at any time and once accepted, the facility or area accepted will be open to the public and maintained by the governmental authority. Seller has provided no assurances as to when or if a governmental authority will accept any such dedication.

**10.3. Neighborhood.** Seller has made no investigations, representations, warranties, or assurances to Buyer concerning the nature or character of individuals living in the neighborhood surrounding the Project Site, present or future.

**10.4. Adjacent Property.** The Buyer has independently investigated the use (present or future) and character of all property adjacent to the Project Site. The Buyer has not relied on any statements of any leasing agent or broker or any brochures or displays of the Seller concerning the use or character of any adjacent property.

**10.5. Noise Transmission.** Seller has made no representations, warranties or assurances to Buyer concerning noise transmission, other than the Project Site will be built in accordance with all applicable building codes in effect at the time the plans for the Project Site were approved by the applicable government authority(ies). Buyer hereby agrees that (i) it is not uncommon in close living situations such as in the Project Site for noise to be heard from other Condominium Units or from outside; (ii) sound tends to carry through pipes, air-conditioning, heating, wood studs and flooring; (iii) sound transmission is highly subjective; and (iv) sound transmission in a close setting is not uncommon, but to be expected, in particular noise generated in or about the garages and adjacent driveways on the Project Site. Buyer further acknowledges that the Unit is located in an area zoned for a mix of different uses, that there are sources of noise from properties adjacent to, or in the vicinity of, the Unit, that such nearby properties will have noise impacts of various kinds, and that Buyer may be disturbed by the noise, commotion, and other unpleasant effects of such nearby properties and mixed uses, including, but not limited to, construction activity, noise from nearby industry, and other noise impacts based on the location of the Unit. Buyer hereby releases Seller from and against any claim arising out of any matter set forth in this section. This Section 10.5 shall survive the Closing and delivery of the deed.

**10.6. Sales Price and Property Values.** The Purchase Price and any sales options, inclusions or exclusions the Buyer may have received in connection with this purchase are the result of an arms-length negotiation with the Seller. The Purchase Price is not based upon any agreements, guarantees, promises or representations concerning property values, the past, present or future prices paid or to be paid for other Condominium Units in the current phase or any future phase of the Project, or any sales options, inclusions or exclusions offered in conjunction with any such sales. The Seller has no obligation to take any action or refrain from taking any action in connection with the development or marketing of any Condominium Units that would support or enhance the value of the improvements constructed being purchased by this Contract.

**10.7. Required Lease Disclaimer.** In the event Buyer leases the Unit, whether such lease is a long-term or short-term rental of the Unit, Buyer agrees to enter into a written agreement with all tenants which must include a disclaimer in substantially the following form:

Each tenant acknowledges that the Unit is located in an area zoned for a mix of different uses, that there are sources of noise from properties adjacent to, or in the vicinity of, the Unit, that such nearby properties will have noise impacts of various kinds, and that tenant may be disturbed by the noise, commotion, and other unpleasant effects of such nearby properties and mixed uses, including, but not limited to, nearby construction activity, noise from nearby industry, and other noise impacts based on the location of the Unit.

Buyer shall indemnify and hold Seller harmless from and against any claims by a tenant for disruption of their use and enjoyment of the Unit by virtue of the matters set forth in this section. This Section 10.7 shall survive the Closing and delivery of the Deed.

**11. DEVELOPER RIGHTS.** Until such time as all of the Condominium Units are sold, Seller reserves the right to make such use of unsold Condominium Units and such of the Limited Common Elements and Common Elements including the related amenities and facilities, parking spaces and any storage spaces, the streets and the main entrance as are necessary for Seller's sales and construction program and equipment storage. Buyer recognizes, acknowledges and agrees that, in order to accomplish Seller's construction program, trucks, construction equipment, personnel, and noise and other inconveniences attendant thereto may be present. Buyer consents thereto, and Buyer agrees not to obstruct or impede any such construction or sales activities. Buyer further acknowledges that Seller and its agents may do remodeling at the Project Site, and Buyer agrees said work shall not constitute a breach of any duty of Seller or right of Buyer,

including but not limited to, any right to quiet enjoyment. Buyer acknowledges that the transfer of title to the Unit shall not include any development rights or other vested rights concerning the Project or the Unit.

**12. CONSTRUCTION OF COMMON ELEMENTS.** Seller will construct the Common Elements in substantial compliance with the Project Plans. Incomplete items of construction within the Common Elements will not delay Closing. Buyer specifically acknowledges and agrees, without limitation, that due to seasonal weather conditions and other factors, including ongoing Project construction, certain portions of the Common Elements, including, without limitation, surface components or improvements such as paving, hardscaping and landscaping, may not be completed upon Substantial Completion of the Unit. Seller will complete the Common Elements as soon as reasonably possible when weather conditions and other factors permit, subject to Force Majeure Delays.

**13. PERSONAL SAFETY AND UNIT SECURITY.** After Closing, Buyer shall secure the Unit against trespass or criminal acts. Seller has no obligation to protect Buyer or the Unit from the acts of others or from the conditions existing within public or private streets, parks, lands or other areas not owned or exclusively controlled by Seller. Seller shall not be liable for injuries or damage resulting from any failure of defect in any burglar alarm or security system installed at the Project Site. The only warranties applicable to security systems are those issued by the manufacturer or installer, if any.

**13.1. No Reliance on Statements Outside Of This Contract.** Except as expressly stated in this Contract, neither Seller nor anyone acting for or on behalf of Seller has made any representation, statement, warranty or promise to Buyer concerning the physical aspects and condition of the Unit or Project Site, the desirability of the Unit or Project Site, the suitability of the Unit or Project Site, the potential income to be derived from or expenses associated with ownership of the Unit or Project Site or for any particular use. In entering into this Contract, Buyer has not relied on any representation, statement or warranty of Seller, or anyone acting for or on behalf of Seller regarding all matters concerning the Project Site, including but not limited to the condition of the soil or any information contained in any soils reports or any other information supplied by Seller, which shall be independently verified by Buyer.

**13.2. Final Agreement.** Buyer and Seller hereby agree that all agreements must be in writing and neither Buyer nor Seller shall rely on any oral arrangements between the parties, including the Builder, any contractors, subcontractors, designer, engineers, architects, brokers and/or vendors. The Contract, this Addendum, and the Project Plans shall constitute the entire Contract.

**13.3. TRANSACTION BROKER:** Purchaser understands that Listing Broker is acting as a transaction-broker in this transaction and will assist both Buyer and Seller throughout a real estate transaction by performing terms of any written or oral agreement, fully informing the parties, presenting all offers and assisting the parties with any contracts, including the closing of the transaction, without being an agent or advocate for any of the parties. A transaction-broker must use reasonable skill and care in the performance of any oral or written agreement, and must make the same disclosures as agents about all adverse material facts actually known by the transaction-broker concerning a property or a buyer's financial ability to perform the terms of a transaction and, if a residential property, whether the buyer intends to occupy the property. No written agreement is required.

#### **14. ADDITIONAL PROVISIONS:**

##### **14.1.**

[Remainder of Page Intentionally Left Blank; Signatures to Follow]



**SIGNATURES**

\_\_\_\_\_  
Buyer

Date\_\_\_\_\_

\_\_\_\_\_  
Buyer

Date\_\_\_\_\_

\_\_\_\_\_  
Seller THISTLE VELO, LLC, a Colorado limited liability company

Date\_\_\_\_\_

\_\_\_\_\_  
Listing Broker Deanna Franco

Date\_\_\_\_\_

\_\_\_\_\_  
Selling Broker

Date\_\_\_\_\_

**Exhibit A**

*Legal description of the Project*

LOT 1C, AIRPORT SOUTH REPLAT C,  
COUNTY OF BOULDER, STATE OF COLORADO

**Exhibit B**

[*See attached*, preliminary Project Plans]