

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

**CONTRACT TO BUY AND SELL REAL ESTATE  
(VACANT LAND)**

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

**1. AGREEMENT.** Buyer agrees to buy and the undersigned Seller agrees to sell the Property defined below on the terms and conditions set forth in this contract.

**2. DEFINED TERMS.**

**a. Buyer.** Buyer \_\_\_\_\_ will take title to the real property described below as  **Joint Tenants**  **Tenants In Common**  **Other** \_\_\_\_\_.

**b. Property.** The Property is the following legally described real estate:

Lot \_\_\_\_\_ Block \_\_\_\_\_, Homestead PUD, 2<sup>nd</sup> Filing, a/k/a Hearthside PUD, according to the recorded Plat thereof at Reception # \_\_\_\_\_

in the County of Larimer Colorado, commonly known as No.

TBD

\_\_\_\_\_  
Street Address City State Zip

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

**c. Dates and Deadlines.**

Item No.	Reference	Event	Date or Deadline
1	§ 5a	Loan Application Deadline	
2	§ 5b	Loan Commitment Deadline	
3	§ 5c	Buyer's Credit Information Deadline	
4	§ 5c	Disapproval of Buyer's Credit Deadline	
5	§ 5d	Existing Loan Document Deadline	
6	§ 5d	Objection to Existing Loan Deadline	
7	§ 5d	Approval of Loan Transfer Deadline	
8	§ 6a	Appraisal Deadline	
9	§ 7a	Title Deadline	
10	§ 7a	Survey Deadline	
11	§ 7b	Document Request Deadline	
12	§ 8a	Title Objection Deadline	
13	§ 8b	Off-Record Matters Deadline	
14	§ 8b	Off-Record Matters Objection Deadline	

15	§ 10	Seller's Property Disclosure Deadline	
16	§ 10a	Inspection Objection Deadline	
17	§ 10b	Resolution Deadline	
18	§ 11	<b>Closing Date</b>	
19	§ 16	Possession Date	
20	§ 16	Possession Time	
21	§ 28	<b>Acceptance Deadline Date</b>	
22	§ 28	<b>Acceptance Deadline Time</b>	

**d. Attachments.** The following exhibits, attachments and addenda are a part of this contract:

**e. Applicability of Terms.** A check or similar mark in a box means that such provision is applicable. The abbreviation "N/A" means not applicable.

**3. INCLUSIONS AND EXCLUSIONS.**

**a.** The Purchase Price includes the following items (Inclusions):  
Fixtures. None; vacant land only.

**b. Instruments of Transfer.** The Inclusions are to be conveyed at Closing free and clear of all taxes, liens and encumbrances, except as provided in § 12. Conveyance shall be by bill of sale or other applicable legal instrument(s).

**c. Exclusions.** The following attached fixtures are excluded from this sale: \_\_\_\_\_

**4. PURCHASE PRICE AND TERMS.** The Purchase Price set forth below shall be payable in U. S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4	Purchase Price	\$	
2	§ 4a	Earnest Money		\$
3	§ 4b	New Loan		
4	§ 4c	Assumption Balance		
5	§ 4d	Broker or Private Financing		
6	§ 4e	Cash at Closing		
		<b>TOTAL</b>	\$	\$

**a. Earnest Money.** The Earnest Money set forth in this Section, in the form of \_\_\_\_\_, is part payment of the Purchase Price and shall be payable to and held by \_\_\_\_\_ in its trust account, on behalf of both Seller and

Buyer. The parties authorize delivery of the Earnest Money deposit to the Closing Company, if any, at or before Closing.

**b. New Loan.** Buyer shall obtain a new loan set forth in this Section and as follows:  **Conventional**  **Other** \_\_\_\_\_. This loan will be secured by a \_\_\_\_\_ (1st, 2nd, etc.) deed of trust.

The total loan amount, not in excess of \$ \_\_\_\_\_, shall be amortized over a period of \_\_\_\_\_  **years**  **months**, payable at approximately \$ \_\_\_\_\_ per \_\_\_\_\_ including principal and interest not to exceed \_\_\_\_\_% per annum, plus, if required by Buyer's lender, a deposit of \_\_\_\_\_ of the estimated annual real estate taxes and property insurance premium. If the loan is an adjustable interest rate or graduated payment loan, the payments and interest rate initially shall not exceed the figures set forth above.

Loan discount points, if any, shall be paid to lender at Closing and shall not exceed \_\_\_\_\_% of the total loan amount. Notwithstanding the loan's interest rate, the first \_\_\_\_\_ loan discount points shall be, ~~paid~~ ~~the~~ balance, if any, shall be paid by \_\_\_\_\_.

Buyer shall timely pay Buyer's loan costs and a loan origination fee not to exceed \_\_\_\_\_% of the loan amount.

**c. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in this Section, presently payable at \$ \_\_\_\_\_ per \_\_\_\_\_ including principal, interest presently at \_\_\_\_\_% per annum, and also including escrow for the following as indicated.  **Real Estate Taxes**,  **Property Insurance Premiums**, and \_\_\_\_\_.

Buyer agrees to pay a loan transfer fee not to exceed \$ \_\_\_\_\_. At the time of assumption, the new interest rate shall not exceed \_\_\_\_\_% per annum and the new monthly payment shall not exceed \$ \_\_\_\_\_ principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$ \_\_\_\_\_, then  **Buyer May Terminate** this contract effective upon receipt by Seller of Buyer's written notice of termination or  \_\_\_\_\_.

Seller  **shall**  **shall not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability shall be evidenced by delivery at Closing of appropriate letter of commitment from lender. Cost payable for release of liability shall be paid by \_\_\_\_\_ in an amount not to exceed \$ \_\_\_\_\_.

**d. Seller or Private Financing.** Buyer agrees to execute a promissory note payable to: \_\_\_\_\_ as  **Joint Tenants**  **Tenants in Common**  **Other** \_\_\_\_\_, on the note form as indicated:  **(UCCC-No Default Rate)** NTD 82-3-95  **(Default Rate)** NTD 81-11-83  **Other** \_\_\_\_\_ secured by a \_\_\_\_\_ (1st, 2nd, etc.) deed of trust encumbering the Property, using the form as indicated:  **Strict Due-On-Sale** (TD 72-7-96)  **Creditworthy** (TD 73-7-96)  **Assumable - Not Due on Sale** (TD 74-7-96)  **Other** \_\_\_\_\_.

Buyer  **Shall**  **Shall Not** execute and deliver, at Closing, a Security Agreement and UCC-1 Financing Statement granting the holder of the promissory note a \_\_\_\_\_ (1st, 2nd, etc.) lien on the personal property included in this sale. The

promissory note shall be amortized on the basis of \_\_\_\_\_  years  months, payable at \$ \_\_\_\_\_ per \_\_\_\_\_ including principal and interest at the rate of \_\_\_\_\_% per annum. Payments shall commence \_\_\_\_\_ and shall be due on the \_\_\_\_\_ day of \_\_\_\_\_ each succeeding \_\_\_\_\_.. If not sooner paid, the balance of principal and accrued interest shall be due and payable \_\_\_\_\_ after Closing. Payments  Shall  Shall Not be increased by \_\_\_\_\_ of estimated annual real estate taxes, and  Shall  Shall Not be increased by \_\_\_\_\_ of estimated annual property insurance premium. The loan shall also contain the following terms: if any payment is not received within \_\_\_\_\_ calendar days after its due date, a late charge of \_\_\_\_\_% of such monthly payment shall be due. Interest on lender disbursements under the deed of trust shall be \_\_\_\_\_% per annum. Default interest rate shall be \_\_\_\_\_% per annum. Buyer may prepay without a penalty except \_\_\_\_\_.

Buyer  Shall  Shall Not provide a mortgagee's title insurance policy, at Buyer's expense.

e. **Cash at Closing.** All amounts paid by Buyer at Closing including Cash at Closing, plus Buyer's closing costs, shall be in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

## 5. FINANCING CONDITIONS AND OBLIGATIONS.

a. **Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining a new loan, or if an existing loan is not to be released at Closing, Buyer, if required by such lender, shall make written application by **Loan Application Deadline** (§ 2c). Buyer shall cooperate with Seller and lender to obtain loan approval, diligently and timely pursue same in good faith, execute all documents and furnish all information and documents required by lender, and, subject to § 4, timely pay the costs of obtaining such loan or lender consent. Buyer agrees to satisfy the reasonable requirements of lender, and shall not withdraw the loan or assumption application, nor intentionally cause any change in circumstances which would prejudice lender's approval of the loan application or funding of the loan.

b. **Loan Commitment.** If Buyer is to pay all or part of the Purchase Price by obtaining a new loan as specified in § 4b, this contract is conditional upon Buyer obtaining a written loan commitment including, if required by lender, (1) lender verification of employment, (2) lender approval of Buyer's creditworthiness, (3) lender verification that Buyer has sufficient funds to close, and (4) specification of any remaining requirements for funding said loan. This condition shall be deemed waived unless Seller receives from Buyer, no later than **Loan Commitment Deadline** (§ 2c), written notice of Buyer's inability to obtain such loan commitment. If Buyer so notifies Seller, this contract shall terminate.

**IF BUYER WAIVES THIS CONDITION BUT DOES NOT CLOSE, BUYER SHALL BE IN DEFAULT.**

c. **Credit Information.** If Buyer is to pay all or part of the Purchase Price by executing a promissory note in favor of Seller or if an existing loan is not to be released at Closing, this contract is conditional upon Seller's approval of Buyer's financial ability and creditworthiness, which approval shall be at Seller's sole and absolute discretion. In such case: (1) Buyer shall supply to Seller by **Buyer's Credit Information**

**Deadline** (§ 2c), at Buyer's expense, information and documents concerning Buyer's financial, employment and credit conditions (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness (including obtaining a current credit report); (3) any such information and documents received by Seller shall be held by Seller in confidence, and not released to others except to protect Seller's interest in this transaction, (4) if Seller does not provide written notice of Seller's disapproval to Buyer by **Disapproval of Buyer's Credit Deadline** (§ 2c), then Seller waives this condition. If Seller does provide written notice of disapproval to Buyer on or before said date, this contract shall terminate.

**d. Existing Loan Review.** If an existing loan is not to be released at Closing, Seller shall provide copies of the loan documents (including note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline** (§ 2c). This contract is conditional upon Buyer's review and approval of the provisions of such loan documents. If written notice of objection to such loan documents, signed by Buyer, is not received by Seller by the **Objection to Existing Loan Deadline** (§ 2c), Buyer accepts the terms and conditions of the documents. If the lender's approval of a transfer of the Property is required, this contract is conditional upon Buyer's obtaining such approval without change in the terms of such loan, except as set forth in § 4c. If lender's approval is not obtained by **Approval of Loan Transfer Deadline** (§ 2c), this contract shall terminate on such date. If Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4c, this contract may be terminated at Seller's option.

**6. APPRAISAL PROVISIONS.**

**a. Appraisal Condition.** This subsection  **Shall**  **Shall Not** apply.

Buyer shall have the sole option and election to terminate this contract if the Purchase Price exceeds the Property's valuation determined by an appraiser engaged by \_\_\_\_\_. The contract shall terminate by Buyer giving Seller written notice of termination and either a copy of such appraisal or written notice from lender which confirms the Property's valuation is less than the Purchase Price, received on or before the **Appraisal Deadline** (§ 2c). If Seller does not receive such written notice of termination on or before the **Appraisal Deadline** (§ 2c), Buyer waives any right to terminate under this subsection.

**b. Cost of Appraisal.** Cost of any appraisal to be obtained after the date of this contract shall be timely paid by  **Buyer**  **Seller**.

**7. EVIDENCE OF TITLE.**

**a. Evidence of Title; Survey.** On or before **Title Deadline** (§ 2c), Seller shall cause to be furnished to Buyer, at Seller's expense, a current commitment for owner's title insurance policy in an amount equal to the Purchase Price. Title insurance commitment  **Shall**  **Shall Not** commit to delete or insure over the standard exceptions which relate to:

- (1) parties in possession,
- (2) unrecorded easements,
- (3) survey matters,
- (4) any unrecorded mechanics' liens,

(5) gap period (effective date of commitment to date deed is recorded), and

(6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing.

Any additional premium expense to obtain this additional coverage shall be paid by  Buyer  Seller. An amount not to exceed \$\_\_\_\_\_ for the cost of any improvement location certificate or survey shall be paid by  Buyer  Seller. If the cost exceeds this amount, \_\_\_\_\_ shall pay the excess on or before Closing. The improvement location certificate or survey shall be received by Buyer on or before **Survey Deadline** (§ 2c). Seller shall cause the title insurance policy to be delivered to Buyer as soon as practicable at or after Closing.

**b. Copies of Exceptions.** On or before **Title Deadline** (§ 2c), Seller, at Seller's expense, shall furnish to Buyer, (1) a copy of any plats, declarations, covenants, conditions and restrictions burdening the Property, and (2) if a title insurance commitment is required to be furnished, and if this box is checked  **Copies of any Other Documents** (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions). Even if the box is not checked, Seller shall have the obligation to furnish these documents pursuant to this subsection if requested by Buyer any time on or before the **Document Request Deadline** (§ 2c). This requirement shall pertain only to documents as shown of record in the office of the clerk and recorder(s). The abstract or title insurance commitment, together with any copies or summaries of such documents furnished pursuant to this Section constitute the title documents (Title Documents).

## 8. TITLE.

**a. Title Review.** Buyer shall have the right to inspect the Title Documents. Written notice by Buyer of unmerchantability of title or of any other unsatisfactory title condition shown by the Title Documents shall be signed by or on behalf of Buyer and given to Seller on or before **Title Objection Deadline** (§ 2c), or within five (5) calendar days after receipt by Buyer of any Title Document(s) or endorsement(s) adding new Exception(s) to the title commitment together with a copy of the Title Document adding new Exception(s) to title. If Seller does not receive Buyer's notice by the date(s) specified above, Buyer accepts the condition of title as disclosed by the Title Documents as satisfactory.

**b. Matters not Shown by the Public Records.** Seller shall deliver to Buyer, on or before **Off-Record Matters Deadline** (§ 2c) true copies of all lease(s) and survey(s) in Seller's possession pertaining to the Property and shall disclose to Buyer all easements, liens or other title matters not shown by the public records of which Seller has actual knowledge. Buyer shall have the right to inspect the Property to determine if any third party(ies) has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary line discrepancy). Written notice of any unsatisfactory condition(s) disclosed by Seller or revealed by such inspection shall be signed by or on behalf of Buyer and given to Seller on or before **Off-Record Matters Objection Deadline** (§ 2c). If Seller does not receive Buyer's notice by said date, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual knowledge.

**c. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND 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. BUYER 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.**

In the event the Property is located within a special taxing district and Buyer desires to terminate this contract as a result, if written notice is received by Seller on or before **Off-Record Matters Objection Deadline** (§ 2c), this contract shall then terminate. If Seller does not receive Buyer's notice by such date, Buyer, accepts the effect of the Property's inclusion in such special taxing district(s) and waives the right to so terminate.

**d. Right to Cure.** If Seller receives notice of unmerchantability of title or any other unsatisfactory condition(s) or commitment terms as provided in § 8a or b above, Seller shall use reasonable effort to correct said items and bear any nominal expense to correct the same prior to Closing. If such unsatisfactory title condition(s) are not corrected on or before Closing, this contract shall then terminate; provided, however, Buyer may by written notice received by Seller, on or before Closing, waive objection to such items.

**e. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including without limitation boundary lines and encroachments, area, zoning, unrecorded easements and claims of easements, leases and other unrecorded agreements, and various laws and governmental regulations concerning land use, development and environmental matters. The surface estate may be owned separately from the underlying mineral estate, and transfer of the surface estate does not necessarily include transfer of the mineral rights. Third parties may hold interests in oil, gas, other minerals, geothermal energy or water on or under the Property, which interests may give them rights to enter and use the Property. Such matters may be excluded from the title insurance policy. Buyer is advised to timely consult legal counsel with respect to all such matters as there are strict time limits provided in this contract (e.g., **Title Objection Deadline** (§ 2c) and **Off-Record Matters Objection Deadline** (§ 2c).

**9. LEAD-BASED PAINT. NA.**

**10. PROPERTY DISCLOSURE AND INSPECTION.** On or before **Seller's Property Disclosure Deadline** (§ 2c), Seller agrees to provide Buyer with a written disclosure of adverse matters regarding the Property completed by Seller to the best of Seller's current actual knowledge.

**a. Inspection Objection Deadline.** Buyer shall have the right to have inspection(s) of the physical condition of the Property and Inclusions, at Buyer's expense. If the physical condition of the Property or Inclusions is unsatisfactory in Buyer's subjective discretion, Buyer shall, on or before **Inspection Objection Deadline** (§ 2c):

- (1) notify Seller in writing that this contract is terminated,
- or
- (2) provide Seller with a written description of any unsatisfactory physical condition which Buyer requires Seller to correct (Notice to Correct).

If written notice is not received by Seller on or before **Inspection Objection Deadline** (§ 2c), the physical condition of the Property and Inclusions shall be deemed to be satisfactory to Buyer.

**b. Resolution Deadline.** If a Notice to Correct is received by Seller and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Resolution Deadline** (§ 2c), this contract shall terminate one calendar day following the Resolution Deadline, unless before such termination Seller receives Buyer's written withdrawal of the Notice to Correct.

**c. Damage; Liens; Indemnity.** Buyer is responsible for payment for all inspections, surveys, engineering reports or for any other work performed at Buyer's request and shall pay for any damage which occurs to the Property and Inclusions as a result of such activities. Buyer shall not permit claims or liens of any kind against the Property for inspections, surveys, engineering reports and for any other work performed on the Property at Buyer's request. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller in connection with any such inspection, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to enforce this subsection, including Seller's reasonable attorney fees. The provisions of this subsection shall survive the termination of this contract.

**11. CLOSING.** Delivery of deed(s) from Seller to Buyer shall be at Closing (Closing). Closing shall be on the date specified as the **Closing Date** (§ 2c) or by mutual agreement at an earlier date. The hour and place of Closing shall be as designated by Seller.

**12. TRANSFER OF TITLE.** Subject to tender or payment at Closing as required herein and compliance by Buyer with the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient General Warranty Deed to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Except as provided herein, title shall be conveyed free and clear of all liens, including any governmental liens for special improvements installed as of the date of Buyer's signature herein, whether assessed or not. Title shall be conveyed subject to:

- a. those specific Exceptions described by reference to recorded documents as reflected in the Title Documents accepted by Buyer in accordance with § 8a (Title Review),
- b. distribution utility easements,

c. those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which were accepted by Buyer in accordance with § 8b (Matters Not Shown by the Public Records), and

d. inclusion of the Property within any special taxing district, and

e. the covenants in substantial conformity with those provided to Buyer (It is anticipated that final covenants will be recorded not later than \_\_\_\_\_, 2003), and

f. other \_\_\_\_\_.

**13. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid shall be paid at or before Closing from the proceeds of this transaction or from any other source.

**14. CLOSING COSTS; DOCUMENTS AND SERVICES.** Buyer and Seller shall pay, in Good Funds, their respective Closing costs and all other items required to be paid at Closing, except as otherwise provided herein. Buyer and Seller shall sign and complete all customary or reasonably required documents at or before Closing. Fees for real estate Closing services shall be paid at Closing by  **One-Half by Buyer and One-Half by Seller**  **Buyer**  **Seller**  **Other** \_\_\_\_\_.

The local transfer tax of \_\_\_\_\_% of the Purchase Price shall be paid at Closing by  **Buyer**  **Seller**. Any sales and use tax that may accrue because of this transaction shall be paid when due by  **Buyer**  **Seller**.

**15. PRORATIONS.** The following shall be prorated to **Closing Date**, except as otherwise provided:

a. **Taxes.** Personal property taxes, if any, and general real estate taxes for the year of Closing, based on  **The Taxes for the Calendar Year Immediately Preceding Closing**  **The Most Recent Mill Levy and Most Recent Assessment**  **Other** \_\_\_\_\_.

b. **Rents.** Rents based on  **Rents Actually Received**  **Accrued**. Security deposits held by Seller shall be credited to Buyer. Seller shall assign all leases to Buyer and Buyer shall assume such leases.

c. **Other Prorations.** Water, sewer charges; and interest on continuing loan(s), if any; and

d. **Final Settlement.** Unless otherwise agreed in writing, these prorations shall be final.

**16. POSSESSION.** Possession of the Property shall be delivered to Buyer on **Possession Date** and **Possession Time** (§ 2c), subject to the following lease(s) or tenancy(s): None.

If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be additionally liable to Buyer for payment of \$ \_\_\_\_\_ per day from the **Possession Date** (§ 2c) until possession is delivered.

**17. NOT ASSIGNABLE.** This contract shall not be assignable by Buyer without Seller's prior written consent. Except as so restricted, this contract shall inure to the benefit of and be binding upon the heirs, personal representatives, successors and assigns of the parties.

**18. CONDITION OF, AND DAMAGE TO PROPERTY AND INCLUSIONS.** Except as otherwise provided in this contract, the Property, Inclusions

or both shall be delivered in the condition existing as of the date of this contract, ordinary wear and tear excepted.

**a. Casualty; Insurance.** In the event the Property or Inclusions shall be damaged by fire or other casualty prior to Closing in an amount of not more than ten percent of the total Purchase Price, Seller shall be obligated to repair the same before the **Closing Date** (§ 2c). In the event such damage is not repaired within said time or if the damages exceed such sum, this contract may be terminated at the option of Buyer by delivering to Seller written notice of termination. Should Buyer elect to carry out this contract, despite such damage, Buyer shall be entitled to a credit at Closing, for all the insurance proceeds resulting from such damage to the Property and Inclusions payable to Seller but not the owners' association, if any, plus the amount of any deductible provided for in such insurance policy, such credit not to exceed the total Purchase Price.

**b. Damage; Inclusions; Services.** Should any Inclusion(s) or service(s) (including systems and components of the Property, e.g., heating, plumbing, etc.) fail or be damaged between the date of this contract and Closing or possession, whichever shall be earlier, then Seller shall be liable for the repair or replacement of such Inclusion(s) or service(s) with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion(s), service(s) or fixture(s) is not the responsibility of the owners' association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. The risk of loss for any damage to growing crops, by fire or other casualty, shall be borne by the party entitled to the growing crops, if any, as provided in § 3 and such party shall be entitled to such insurance proceeds or benefits for the growing crops, if any.

**c. Walk-Through; Verification of Condition.** Buyer, upon reasonable notice, shall have the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this contract.

**19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this document, Buyer and Seller acknowledge that the Seller has advised that this document has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this contract.

**20. TIME OF ESSENCE AND REMEDIES.**

**a. If Buyer is in Default:**

**(1) Specific Performance.** Seller may elect to treat this contract as canceled, in which case all payments and things of value received hereunder shall be forfeited and retained on behalf of Seller, and Seller may recover such damages as may be proper. or Seller may elect to treat this contract as being in full force and effect and Seller shall have the right to specific performance or damages, or both.

**(2) Liquidated Damages.** All payments and things of value received hereunder shall be forfeited by Buyer and retained on behalf of Seller and both parties shall thereafter be released from all obligations hereunder. It is agreed that such payments and things of value are LIQUIDATED DAMAGES and (except as provided in subsection c) are SELLER'S SOLE AND ONLY REMEDY for Buyer's failure to perform the obligations of this contract. Seller expressly waives the remedies of specific performance and additional damages.

**b. If Seller is in Default:** Buyer may elect to treat this contract as canceled, in which case all payments and things of value received hereunder shall be returned and Buyer may recover such damages as may be proper, or Buyer may elect to treat this contract as being in full force and effect and Buyer shall have the right to specific performance or damages, or both.

**c. Costs and Expenses.** In the event of any arbitration or litigation relating to this contract, the arbitrator or court shall award to the prevailing party all reasonable costs and expenses, including attorney fees.

**21. MEDIATION.** If a dispute arises relating to this contract, prior to or after Closing, and is not resolved, the parties shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute MUST agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved 30 calendar days from the date written notice requesting mediation is sent by one party to the other(s). This Section shall not alter any date in this contract, unless otherwise agreed.

**22. EARNEST MONEY DISPUTE.** Notwithstanding any termination of this contract, Buyer and Seller agree that, in the event of any controversy regarding the Earnest Money and things of value held by Escrow Agent (unless mutual written instructions are received by the holder of the Earnest Money and things of value), Escrow Agency shall not be required to take any action but may await any proceeding, or at Escrow Agent's option and sole discretion, may interplead all parties and deposit any moneys or things of value into a court of competent jurisdiction and shall recover court costs and reasonable attorney fees.

**23. TERMINATION.** In the event this contract is terminated, all payments and things of value received hereunder shall be returned and the parties shall be relieved of all obligations hereunder, subject to §§ 10c, 21 and 22.

**24. ADDITIONAL PROVISIONS.** (The language of these additional provisions has not been approved by the Colorado Real Estate Commission.)

A. Purchaser or any designee, shall have the right to have inspection(s) of the physical condition of the Property and Inclusions, at Purchaser's expense. Purchaser shall be authorized to conduct a soils test at its own expense on or before \_\_\_\_\_. If written notice of any unsatisfactory condition, signed by Purchaser, is not received by Seller on or before said date, the physical condition of the Property and Inclusions shall be deemed to be satisfactory to Purchaser. If written notice of any unsatisfactory condition, signed by Purchaser, is given to Seller as set forth above in this section, and if Purchaser and Seller have not reached a written agreement in settlement thereof on or before \_\_\_\_\_, this contract shall then terminate, subject to section \_\_\_\_\_. Purchaser is responsible and shall pay for any damage which occurs to the Property and Inclusions as a result of such inspection.

B. Purchaser is responsible for all road and park fees, soil tests, building permits, water, sewer or other tap fees, sales taxes and other fees customarily borne by purchasers of vacant land.

C. Purchaser assumes minimum utility fees of not less than \$ \_\_\_ per month from the date of closing.

D. Payment of homeowner association fees by Purchaser in the initial amount of Fifty Dollars (\$50.00) per month shall commence on the first day of the month following closing.

E. This Contract expresses the exclusive agreement of the parties, and all conversations, communications or negotiations prior to the execution hereof are expressly merged herein.

F. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND 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. PURCHASERS 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.

G. Electrical service will be provided by the City of Fort Collins, sewer by the South Fort Collins Sewer District, water by the Fort Collins/Loveland Water District and gas service provided by Xcel Energy.

H. Purchaser acknowledges receipt of a copy of the recorded Declaration of Covenants concerning The Homestead P.U.D., Second Filing a/k/a Hearthiside PUD and represents to Seller that he has examined same to his full satisfaction. Purchaser further understands and acknowledges that construction of improvements on the Lot and other matters are subject to the provisions of the Covenants, including, but not limited to Architectural Control. Attached hereto, Exhibit \_\_\_ is a list of the existing approved builders on the Lot. While this list may change from time to time at the discretion of the Seller or its assigns, Purchaser expressly understands and agrees that Developer has the right to restrict the choice of approved builders to those on the list as the same may be amended; provided, however, that once a builder has been selected by Purchaser from such list, such consent will not be withdrawn for a period of two years. Purchaser acknowledges that this provision is expressly agreed to and is important to the

preservation of the quality of overall development and aesthetic and economic interests of the homeowners.

I. Purchaser understands and acknowledges that that there are no rights of access or use in or to the adjacent Homestead PUD or its Common Elements (including, but not limited to the pond and common areas) and that such development is separate and distinct from the Hearthside PUD.

J. Seller has not listed this property with a real estate agency and will not pay or participate in the payment of real estate commissions. Purchaser warrants that no real estate commissions are payable by it and will indemnify Seller against any claims to same.

K. Purchaser acknowledges that Seller has recommended that Purchaser obtain a soils test of the Property prior to commencement of building plans and that Seller makes no warranties express or implied concerning soil conditions. Purchaser acknowledges receipt of the documents identified in the attached Exhibit \_\_ prior to the execution hereof. These include, but are not limited to, a copy of the declaration of covenants recorded with the Larimer County Clerk and Records Office at Reception # \_\_\_\_\_, soils tests as further identified therein and \_\_\_\_\_. Purchaser understands and agrees that by providing a copy of the soils test(s), Seller has not represented the accuracy or content thereof, but has provided same as an accommodation to the Purchaser for his convenience without cost. Given the size of the Lot and the potential for variability of soils, Purchaser acknowledges it is essential that Purchaser obtain a qualified soils test(s) for the specific location of the residence prior to construction of any residence.

**25. ENTIRE AGREEMENT; SUBSEQUENT MODIFICATION; SURVIVAL.** This contract constitutes the entire contract between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this contract. No subsequent modification of any of the terms of this contract shall be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any obligation in this contract which, by its terms, is intended to be performed after termination or Closing, shall survive the same.

**26. FACSIMILE.** Signatures  **May**  **May Not** be evidenced by facsimile. Documents with original signatures shall be provided to the other party at Closing, or earlier upon request of any party.

**27. NOTICE.** Except for the notice requesting mediation described in § 21, any notice to Buyer shall be effective when received by Buyer or by Selling Company and any notice to Seller shall be effective when received by Seller or Listing Company.

**28. NOTICE OF ACCEPTANCE; COUNTERPARTS.** This proposal shall expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of acceptance pursuant to § 27 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time** (§ 2c). If accepted, this document shall become a contract between Seller and Buyer. A copy of this document may be executed by each party, separately, and when each party has

executed a copy thereof, such copies taken together shall be deemed to be a full and complete between the parties.

\_\_\_\_\_  
(Buyer)

\_\_\_\_\_  
(Buyer)

Date of Buyer's Signature \_\_\_\_\_

Date of Buyer's Signature \_\_\_\_\_

Buyer's Address: \_\_\_\_\_  
\_\_\_\_\_

Buyer's Telephone No.: \_\_\_\_\_

Buyer's Fax No.: \_\_\_\_\_

[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 29]

Legacy Development Corporation

By \_\_\_\_\_

Its \_\_\_\_\_

(Seller)

Date of Seller's Signature \_\_\_\_\_

Seller's Address: \_\_\_\_\_  
\_\_\_\_\_

Seller's Telephone No.: \_\_\_\_\_

Seller's Fax No.: \_\_\_\_\_

**29. COUNTER; REJECTION.** This offer is  **Countered**  **Rejected.**  
Initials only of party (Buyer or Seller) who countered or rejected offer \_\_\_\_\_  
\_\_\_\_\_.

**END OF CONTRACT**

**Note: Closing Instructions should be signed on or before Title Deadline.**