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17 *J&J Consulting Services, Inc., J&J Consulting*
18 *Services, Inc., J and J Purchasing LLC,*
19 *The Judd Irrevocable Trust, and BJ Holdings LLC*

20 **IN THE UNITED STATES DISTRICT COURT**
21 **FOR THE DISTRICT OF NEVADA**

22 SECURITIES AND EXCHANGE
23 COMMISSION,

24 Plaintiff

25 vs.

26 MATTHEW WADE BEASLEY; et al.,

27 Defendants

28 THE JUDD IRREVOCABLE TRUST, et al.,

Relief Defendants

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CASE NO. 2:22-cv-00612-CDS-EJY

**STIPULATION AND ORDER
AUTHORIZING THE SALE OF REAL
PROPERTY LOCATED AT 2701 W. 390
N., HURRICANE, UTAH 84737**

26 The following Stipulation and [Proposed] Order (the “Stipulation”) regarding the sale of the
27 real property located at 2701 W. 390 N., Hurricane, Utah 84737, and bearing the legal description
28 appended hereto as **Exhibit A** (the “Property”) is entered into by and between Geoff Winkler (the

1 “Receiver”), the Court-appointed receiver in the above-entitled action, and the plaintiff Securities
2 and Exchange Commission (the “Commission”), by and through their respective representatives,
3 and with respect to the following facts:

4 1. The Receiver was appointed on June 3, 2022 pursuant to this Court’s Order
5 Appointing Receiver [ECF No. 88] which was amended on July 28, 2022 [ECF 207] (collectively,
6 the “Appointment Order”). Among other things, and by way of the Appointment Order, the
7 Receiver was appointed as receiver over defendant J&J Consulting Services, Inc.;

8 2. The Appointment Order required the turnover of certain personal and real property
9 to the Receiver including but not limited to the Property which was transferred to J&J Consulting
10 Services Inc. (hereinafter, “Seller”) via Quit Claim Deed on March 30, 2023 from Christopher Ronn
11 Humphries and Jessica Allison Humphries, Trustees of the CJ Humphries Living Trust dated
12 September 20, 2007 and any amendments thereto;

13 3. The Receiver has been authorized to market the Property for sale, and to collect the
14 net proceeds from the sale of the Property as provided for herein;

15 4. The buyer of the Property, Erik Hughes (“Buyer”), has agreed to purchase the
16 Property for the sum of \$435,000, in accordance with the terms of the Residential Purchase
17 Contract, Addenda, and associated materials (the “RPA”) collectively attached hereto as **Exhibit B**.
18 Pursuant to the RPA, the Buyer has deposited \$5,000 into an escrow established at Southern Utah
19 Title Company (the “Escrow”), pursuant to an escrow agreement dated June 6, 2023, as an earnest
20 money deposit;

21 5. The Receiver, the Seller, and the Buyer agree and acknowledge that all proceeds of
22 the foregoing sales shall be transmitted from the Escrow to the Receiver, via wire transfer,
23 immediately upon the closing of the sale of the Property. It is anticipated that the sales will close
24 within thirty (30) days of the District Court’s approval of this Stipulation. The Receiver believes
25 that the Buyer’s offer represents fair market value for Property;

26 6. The Receiver is seeking to close the sale via this Stipulation in lieu of title
27 assignment and receiver’s auction process because of changes and uncertainties in the real estate
28 marketplace jeopardize the sale of the Property, and the recovery of the maximum sale proceeds

1 for the benefit of the receivership estate in the immediate term. Indeed, the Receiver has already
2 lost a number of prospective buyers for the Property, none of whom were able to secure necessary
3 financing or waive all contingencies, making it impossible for the Receiver to commence or
4 complete the auction procedures required under 28 U.S.C. § 2001, and the sales procedures already
5 approved by this Court (which include sale pursuant to stipulation, in certain circumstances).
6 Moreover, the Receiver has determined, in his reasonable business judgment, that delays in
7 connection with the closing of the sale that could result from an auction process and the time
8 required by a title company to underwrite new a title policy could result in the Buyer rescinding its
9 offer to purchase the Property. The Buyer has indicated that he has secured the financing necessary
10 to close the purchase of the Property, and has waived all sale contingencies;

11 7. The Receiver and his real estate broker believe that delays in the closing beyond the
12 timing contemplated by the RPA will jeopardize the sale of the Property. In the Receiver's view,
13 the market is deteriorating as a result of, among other things, the rise in mortgage rates over the
14 past year and economic uncertainty associated with the real estate market as a whole. It is possible
15 that if the sale does not close, the Property may remain on the market for months without an equal
16 or superior offer to purchase being secured;

17 8. After payment of closing costs and brokers' commissions, as reflected in the RPA,
18 all sale proceeds from the sale of the Property shall be wired directly to the Receiver from the
19 Escrow, as provided above. It is estimated that the net proceeds of the sales, which will be wired
20 from the Escrow to the Receiver, will be approximately \$409,232.34;

21 9. Accordingly, in light of the unique facts and circumstances surrounding the
22 proposed sale of the Property, including but not limited to increasing interest rates, an uncertain
23 real estate market, the Buyer's ability to secure financing and his having waived all purchase
24 contingencies, as well as the Receiver's concerns that failing to immediately move forward with
25 this sale may lead to the receipt of significantly less recovery for the receivership estate, the
26 undersigned parties believe this Stipulation is necessary, and in the best interest of all parties and
27 the receivership estate. Therefore, the undersigned agree that it is appropriate to waive any
28

1 requirements imposed by 28 U.S.C. § 2001, et. seq. to the extent they are applicable to the offer,
2 the RPA, and the proposed sale of the Property.

3 **ACCORDINGLY, IT IS HEREBY STIPULATED AND AGREED** by and between the
4 undersigned that:

5 A. Seller may consummate the sale of the Property pursuant to the offer reflected in the
6 RPA;

7 B. The deposits received relating to the RPA shall be immediately delivered to the
8 Receiver; and

9 C. Following the District Court’s approval of this Stipulation, on the Closing Date
10 reflected in the RPA and any addenda thereto, that the net proceeds of the sale shall be wired directly
11 from the Escrow to the Receiver.

12 DATED this 28th day of June 2023

DATED this 28th day of June 2023

13 **SECURITIES & EXCHANGE**
14 **COMMISSION**

GREENBERG TRAUERIG, LLP

15 */s/ Casey R. Fronk*

/s/ Kara B. Hendricks

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ORDER

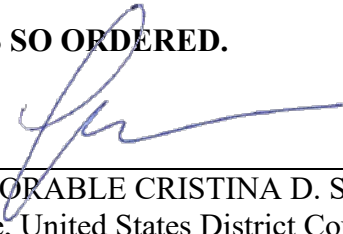
IT IS HEREBY ORDERED that:

A. Seller may sell the Property pursuant to the terms of the RPA.

B. The deposit received by escrow pursuant to the RPA shall be immediately transferred to the Receiver; and

C. Upon the Closing of the sale of the Property in accordance with the terms of the RPA and any addenda thereto, all of the net sale proceeds shall be wired directly from the Escrow to the Receiver.

IT IS SO ORDERED.



HONORABLE CRISTINA D. SILVA
Judge, United States District Court

DATE: June 29, 2023

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LIST OF EXHIBITS

EXHIBIT	DESCRIPTION
Exhibit A	Legal Description (2701 W. 390 N., Hurricane, Utah 84737)
Exhibit B	Residential Purchase Contract, Addenda, and Associated Materials

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EXHIBIT A

EXHIBIT A

Legal Description

EXHIBIT "A"

LEGAL DESCRIPTION

File No.: 1955383

Lot I-92, "Sky Ridge Subdivision, Phase 9-A - Amended & Extended", according to the official plat thereof, on file in the office of the recorder of Washington County, State of Utah.

Tax ID No. H-SKRS-9-A-I-92 (shown for informational purposes only)

EXHIBIT B

EXHIBIT B

Residential Purchase Contract, Addenda, and
Associated Materials

REAL ESTATE PURCHASE CONTRACT

This is a legally binding Real Estate Purchase Contract ("REPC"). Utah law requires real estate licensees to use this form. Buyer and Seller, however, may agree to alter or delete its provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

EARNEST MONEY DEPOSIT

On this 25th day of May, 20 23 ("Offer Reference Date") Erik Hughes ("Buyer") offers to purchase from Geoff Winkler, Receiver ("Seller") the Property described below and agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), an Earnest Money Deposit in the amount of \$ 5,000 in the form of Check or Wire. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

OFFER TO PURCHASE

1. PROPERTY: 2701 W. 390 N.

City of Hurricane, County of Washington, State of Utah, Zip 84737 Tax ID No. H-SKRS-9-A-I-92 (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, 1.2 and 1.4.

1.1 **Included Items.** Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment; solar panels; ovens, ranges and hoods; cook tops; dishwashers; ceiling fans; water heaters; water softeners; light fixtures and bulbs; bathroom fixtures and bathroom mirrors; all window coverings including curtains, draperies, rods, window blinds and shutters; window and door screens; storm doors and windows; awnings; satellite dishes; all installed TV mounting brackets; all wall and ceiling mounted speakers; affixed carpets; automatic garage door openers and accompanying transmitters; security system; fencing and any landscaping.

1.2 **Other Included Items.** The following items that are presently owned and in place on the Property have been left for the convenience of the parties and are also included in this sale (check applicable box): washers dryers refrigerators microwave ovens other (specify) Hot tub, water softener and shade screens in back yard.

The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title. In addition to any boxes checked in this Section 1.2 above, there ARE ARE NOT additional items of personal property Buyer intends to acquire from Seller at Closing by separate written agreement.

1.3 **Excluded Items.** The following items are excluded from this sale: N/A

1.4 **Water Service.** The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: N/A

2. PURCHASE PRICE.

2.1 **Payment of Purchase Price.** The Purchase Price for the Property is \$ 435,000. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2.1(a) through 2.1(e) below. Any amounts shown in Sections 2.1(c) and 2.1(e) may be adjusted as deemed necessary by Buyer and the Lender (the "Lender").

- \$ 5,000 (a) **Earnest Money Deposit.** Under certain conditions described in the REPC, this deposit may become totally non-refundable.
 - \$ 0 (b) **Additional Earnest Money Deposit** (see Section 8.4 if applicable)
 - \$ 348,000 (c) **New Loan.** Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer: If an FHA/VA loan applies, see attached FHA/VA Loan Addendum.
 - \$ 0 (d) **Seller Financing** (see attached Seller Financing Addendum)
 - \$ 82,000 (e) **Balance of Purchase Price in Cash at Settlement**
- \$ 435,000 **PURCHASE PRICE. Total of lines (a) through (e)**

2.2 **Sale of Buyer's Property.** Buyer's ability to purchase the Property, to obtain the Loan referenced in Section 2.1(c) above, and/or any portion of the cash referenced in Section 2.1(e) above IS IS NOT conditioned upon the sale of real estate owned by Buyer. If checked in the affirmative, the terms of the attached subject to sale of Buyer's property addendum apply.

3. SETTLEMENT AND CLOSING.

3.1 **Settlement.** Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "Settlement" shall occur only when all of the following have been completed (a) Buyer and Seller have signed

Page 1 of 6 pages Buyer's Initials EA Date 05-25-2023 Seller's Initials GW Date 5/30/2023

and delivered to each other or to the escrow/closing office all documents required by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents (except for the proceeds of any Loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

3.2 Closing. For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new Loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder ("Recording"). The actions described in 3.2 (b) and (c) shall be completed no later than four calendar days after Settlement.

3.3 Possession. Except as provided in Section 6.1(a) and (b), Seller shall deliver physical possession of the Property to Buyer as follows: **[X] Upon Recording; [] 0 Hours after Recording; [] 0 Calendar Days after Recording.** Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property including any personal property and belongings. The provisions of this Section 3.3 shall survive Closing.

4. PRORATIONS / ASSESSMENTS / OTHER PAYMENT OBLIGATIONS.

4.1 Prorations. All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 4.1 shall survive Closing.

4.2 Special Assessments. Any assessments for capital improvements as approved by the homeowner's association ("HOA") (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by: **[] Seller [] Buyer [] Split Equally Between Buyer and Seller [X] Other (explain) N/A**. The provisions of this Section 4.2 shall survive Closing.

4.3 Fees/Costs/Payment Obligations.
(a) Escrow Fees. Unless otherwise agreed to in writing, Seller and Buyer shall each pay their respective fees charged by the escrow/closing office for its services in the settlement/closing process. The provisions of this Section 4.3(a) shall survive Closing.

(b) Rental Deposits/Prepaid Rents. Rental deposits (including, but not limited to, security deposits, cleaning deposits and prepaid rents) for long term lease or rental agreements, as defined in Section 6.1(a), and short-term rental bookings, as defined in Section 6.1(b), not expiring prior to Closing, shall be paid or credited by Seller to Buyer at Settlement. The provisions of this Section 4.3(b) shall survive Closing.

(c) HOA/Other Entity Fees Due Upon Change of Ownership. Some HOA's, special improvement districts and/or other specially planned areas, under their governing documents charge a fee that is due to such entity as a result of the transfer of title to the Property from Seller to Buyer. Such fees are sometimes referred to as transfer fees, community enhancement fees, HOA reinvestment fees, etc. (collectively referred to in this section as "change of ownership fees"). Regardless of how the change of ownership fee is titled in the applicable governing documents, if a change of ownership fee is due upon the transfer of title to the Property from Seller to Buyer, that change of ownership fee shall, at Settlement, be paid for by: **[] Seller [] Buyer [] Split Equally Between Buyer and Seller [X] Other (explain) N/A**. The provisions of this Section 4.3(c) shall survive Closing.

(d) Utility Services. Buyer agrees to be responsible for all utilities and other services provided to the Property after the Settlement Deadline. The provisions of this Section 4.3(d) shall survive Closing.

(e) Sales Proceeds Withholding. The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 4.3(e) shall survive Closing.

5. CONFIRMATION OF AGENCY DISCLOSURE. Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC:

Seller's Agent(s) Bill Hobson, represent(s) **[X] Seller [] both Buyer and Seller as Limited Agent(s);**

Seller's Agent(s) Utah Real Estate License Number(s): 5452472-SA00.

Seller's Brokerage BHHS Utah Properties SG, represents **[X] Seller [] both Buyer and Seller as Limited Agent;**

Seller's Brokerage Utah Real Estate License Number: 10774461-BO00.

Buyer's Agent(s) Kali Gray, represent(s) **[X] Buyer [] both Buyer and Seller as Limited Agent(s);**

Buyer's Agent(s) Utah Real Estate License Number(s): 8260660-SA00.

Buyer's Brokerage Realty ONE Group Goldmark, represents **[X] Buyer [] both Buyer and Seller as a Limited Agent.**

Buyer's Brokerage Utah Real Estate License Number: 11103521-CN00.

6. TITLE & TITLE INSURANCE.

6.1 Title to Property. Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8.

(a) Long-Term Lease or Rental Agreements. Buyer agrees to accept title to the Property subject to any long-term tenant lease or rental agreements (meaning for periods of thirty (30) or more consecutive days) affecting the Property not expiring prior to Closing. Buyer also agrees to accept title to the Property subject to any existing rental and property management agreements affecting the Property not expiring prior to Closing.

The provisions of this Section 6.1(a) shall survive Closing.

(b) **Short-Term Rental Bookings.** Buyer agrees to accept title to the Property subject to any short-term rental bookings (meaning for periods of less than thirty (30) consecutive days) affecting the Property not expiring prior to Closing. The provisions of this Section 6.1(b) shall survive Closing.

6.2 Title Insurance. At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment (the "Issuing Agent"), the most current version of the *ALTA Homeowner's Policy of Title Insurance* (the "*Homeowner's Policy*"). If the *Homeowner's Policy* is not available through the Issuing Agent, Buyer and Seller further agree as follows: (a) Seller agrees to pay for the *Homeowner's Policy* if available through any other title insurance agency selected by Buyer; (b) if the *Homeowner's Policy* is not available either through the Issuing Agent or any other title insurance agency, then Seller agrees to pay for, and Buyer agrees to accept, the most current available version of an *ALTA Owner's Policy of Title Insurance* ("*Owner's Policy*") available through the Issuing Agent.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller property condition disclosure for the Property, completed, signed and dated by Seller as provided in Section 10.3;
- (b) a *Lead-Based Paint Disclosure & Acknowledgement* for the Property, completed, signed and dated by Seller (only if the Property was built prior to 1978);
- (c) a Commitment for Title Insurance as referenced in Section 6.1;
- (d) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (e) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (f) a copy of any long-term tenant lease or rental agreements affecting the Property not expiring prior to Closing;
- (g) a copy of any short-term rental booking schedule (as of the Seller Disclosure Deadline) for guest use of the Property after Closing;
- (h) a copy of any existing property management agreements affecting the Property;
- (i) evidence of any water rights and/or water shares referenced in Section 1.4;
- (j) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations;
- (k) In general, the sale or other disposition of a U.S. real property interest by a foreign person is subject to income tax withholding under the *Foreign Investment in Real Property Tax Act of 1980* (FIRPTA). A "foreign person" includes a non-resident alien individual, foreign corporation, partnership, trust or estate. If FIRPTA applies to Seller, Seller is advised that Buyer or other qualified substitute may be legally required to withhold this tax at Closing. In order to avoid closing delays, if Seller is a foreign person under FIRPTA, Seller shall advise Buyer in writing; and
- (l) Other (specify) N/A

8. BUYER'S CONDITIONS OF PURCHASE.

8.1 DUE DILIGENCE CONDITION. Buyer's obligation to purchase the Property: IS IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply; otherwise they do not.

(a) **Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the land and/or improvements; the condition of the roof, walls, and foundation; the condition of the plumbing, electrical, mechanical, heating and air conditioning systems and fixtures; the condition of all appliances; the costs and availability of homeowners' insurance and flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property; and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

(b) **Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

(c) **Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(b), Buyer shall be deemed to have waived the Due Diligence Condition, and except as provided in Sections 8.2(a) and 8.3(b)(i), the Earnest Money Deposit shall become non-refundable.

8.2 APPRAISAL CONDITION. Buyer's obligation to purchase the Property: IS IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply; otherwise they do not.

(a) **Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

(b) **Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2, Buyer shall be deemed to have waived the Appraisal

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Condition, and except as provided in Sections 8.1(b) and 8.3(b)(i), the Earnest Money Deposit shall become non-refundable.

8.3 FINANCING CONDITION. (Check Applicable Box)

(a) **No Financing Required.** Buyer's obligation to purchase the Property **IS NOT** conditioned upon Buyer obtaining financing. If checked, Section 8.3(b) below does NOT apply.

(b) **Financing Required.** Buyer's obligation to purchase the Property **IS** conditioned upon Buyer obtaining the Loan referenced in Section 2.1(c). This Condition is referred to as the "Financing Condition." If checked, Sections 8.3(b)(i), (ii) and (iii) apply; otherwise they do not. If the REPC is not cancelled by Buyer as provided in Sections 8.1(b) or 8.2(a), then Buyer agrees to work diligently and in good faith to obtain the Loan.

(i) **Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may, after the Due Diligence Deadline referenced in Section 24(b), if applicable, cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon \$0 of Buyer's Earnest Money Deposit shall be released to Seller without the requirement of further written authorization from Buyer, and the remainder of Buyer's Earnest Money Deposit shall be released to Buyer without further written authorization from Seller.

(ii) **Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to the escrow/closing office as required under Section 3.2, then Buyer shall not be obligated to purchase the Property and Buyer or Seller may cancel the REPC by providing written notice to the other party.

(iii) **Earnest Money Deposit(s) Released to Seller.** If the REPC is cancelled as provided in Section 8.3(b)(ii), Buyer agrees that all of Buyer's Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. Seller agrees to accept, as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

8.4 ADDITIONAL EARNEST MONEY DEPOSIT. If the REPC has not been previously canceled by Buyer as provided in Sections 8.1, 8.2 or 8.3, as applicable, then no later than the Due Diligence Deadline, or the Financing & Appraisal Deadline, whichever is later, Buyer: **WILL** **WILL NOT** deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$0. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

9. ADDENDA. There **ARE** **ARE NOT** addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference: **Addendum No. ONE & TWO** **Seller Financing Addendum** **FHA/VA Loan Addendum** **Other (specify)** N/A.

10. HOME WARRANTY PLAN / AS-IS CONDITION OF PROPERTY.

10.1 Home Warranty Plan. A one-year Home Warranty Plan **WILL** **WILL NOT** be included in this transaction. If included, the Home Warranty Plan shall be ordered by **Buyer** **Seller** and shall be issued by a company selected by **Buyer** **Seller**. The cost of the Home Warranty Plan shall not exceed \$ N/A and shall be paid for at Settlement by **Buyer** **Seller**.

10.2 Condition of Property/Buyer Acknowledgements. Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property. The provisions of Section 10.2 shall survive Closing.

10.3 Condition of Property/Seller Acknowledgements. Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller property condition disclosure as stated in Section 7(a); (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23, ordinary wear and tear excepted; (d) deliver the Property to Buyer in broom-clean condition and free of debris and personal belongings; and (e) repair any Seller or tenant moving-related damage to the Property at Seller's expense. The provisions of Section 10.3 shall survive Closing.

11. FINAL PRE-SETTLEMENT WALK-THROUGH INSPECTION. No earlier than seven (7) calendar days prior to Settlement, and upon reasonable notice and at a reasonable time, Buyer may conduct a final pre-Settlement walk-through inspection of the Property to determine only that the Property is "as represented," meaning that the items referenced in Sections 1.1, 1.2 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a walk-through inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

12. CHANGES DURING TRANSACTION. Seller agrees that except as provided in Section 12.5 below, from the date of Acceptance until the date of Closing the following additional items apply:

12.1 Alterations/Improvements to the Property. No substantial alterations or improvements to the Property shall be made or undertaken without prior written consent of Buyer.

12.2 Financial Encumbrances/Changes to Legal Title. No further financial encumbrances to the Property shall be made, and no changes in

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the legal title to the Property shall be made without the prior written consent of Buyer.

12.3 Property Management Agreements. No changes to any existing property management agreements shall be made and no new property management agreements may be entered into without the prior written consent of Buyer.

12.4 Long-Term Lease or Rental Agreements. No changes to any existing tenant lease or rental agreements shall be made and no new long-term lease or rental agreements, as defined in Section 6.1(a), may be entered into without the prior written consent of Buyer.

12.5 Short-Term Rental Bookings. If the Property is made available for short-term rental bookings as defined in Section 6.1(b), Seller **MAY NOT** after the Seller Disclosure Deadline continue to accept short-term rental bookings for guest use of the property without the prior written consent of Buyer.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

14. COMPLETE CONTRACT. The REPC together with its addenda, any attached exhibits, and Seller Disclosures (collectively referred to as the "REPC"), constitutes the entire contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties whether verbal or otherwise. The REPC cannot be changed except by written agreement of the parties.

15. MEDIATION. Any dispute relating to the REPC arising prior to or after Closing: **SHALL** **MAY AT THE OPTION OF THE PARTIES** first be submitted 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 share equally in the cost of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this Section 15 prohibits any party from seeking emergency legal or equitable relief, pending mediation. The provisions of this Section 15 shall survive Closing.

16. DEFAULT.

16.1 Buyer Default. If Buyer defaults, Seller may elect one of the following remedies: (a) cancel the REPC and retain the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages; (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Buyer to specifically enforce the REPC; or (c) return the Earnest Money Deposit, or Deposits, if applicable, to Buyer and pursue any other remedies available at law.

16.2 Seller Default. If Seller defaults, Buyer may elect one of the following remedies: (a) cancel the REPC, and in addition to the return of the Earnest Money Deposit, or Deposits, if applicable, Buyer may elect to accept from Seller, as liquidated damages, a sum equal to the Earnest Money Deposit, or Deposits, if applicable; or (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Seller to specifically enforce the REPC; or (c) accept a return of the Earnest Money Deposit, or Deposits, if applicable, and pursue any other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

17. ATTORNEY FEES AND COSTS/GOVERNING LAW. In the event of litigation or binding arbitration arising out of the transaction contemplated by the REPC, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15. This contract shall be governed by and construed in accordance with the laws of the State of Utah. The provisions of this Section 17 shall survive Closing.

18. NOTICES. Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.

19. NO ASSIGNMENT. The REPC and the rights and obligations of Buyer hereunder, are personal to Buyer. The REPC may not be assigned by Buyer without the prior written consent of Seller. Provided, however, the transfer of Buyer's interest in the REPC to any business entity in which Buyer holds a legal interest, including, but not limited to, a family partnership, family trust, limited liability company, partnership, or corporation (collectively referred to as a "Permissible Transfer"), shall not be treated as an assignment by Buyer that requires Seller's prior written consent. Furthermore, the inclusion of "and/or assigns" or similar language on the line identifying Buyer on the first page of the REPC shall constitute Seller's written consent only to a Permissible Transfer.

20. INSURANCE & RISK OF LOSS.

20.1 Insurance Coverage. As of Closing, Buyer shall be responsible to obtain casualty and liability insurance coverage on the Property in amounts acceptable to Buyer and Buyer's Lender, if applicable.

20.2 Risk of Loss. If prior to Closing, any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Seller; provided however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the Purchase Price referenced in Section 2, either Seller or Buyer may elect to cancel the REPC by providing written notice to the other party, in which instance the Earnest Money Deposit, or Deposits, if applicable, shall be returned to Buyer.

21. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in the REPC. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in the REPC: (a) performance under each Section of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (e.g. Acceptance). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the REPC, except as otherwise agreed to in writing by such non-party.

22. ELECTRONIC TRANSMISSION AND COUNTERPARTS. The REPC may be executed in counterparts. Signatures on any of the Documents, whether executed physically or by use of electronic signatures, shall be deemed original signatures and shall have the same legal effect as original signatures.

23. ACCEPTANCE. "Acceptance" occurs **only** when **all** of the following have occurred: (a) Seller or Buyer has signed the offer or counteroffer where noted to indicate acceptance; and (b) Seller or Buyer or their agent has communicated to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

24. CONTRACT DEADLINES. Buyer and Seller agree that the following deadlines shall apply to the REPC:

- (a) Seller Disclosure Deadline N/A (Date)
- (b) Due Diligence Deadline 10 DAYS AFTER ACCEPTANCE (Date)
- (c) Financing & Appraisal Deadline 20 DAYS AFTER ACCEPTANCE (Date)
- (d) Settlement Deadline ON OR BEFORE 30 DAYS AFTER ACCEPTANCE (Date)

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 4:45 [] AM [x] PM Mountain Time on 05/31/2023 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

Erik Hughes 05-25-2023
 (Buyer's Signature) (Date) (Buyer's Signature) (Date)

ACCEPTANCE/COUNTEROFFER/REJECTION

- CHECK ONE:**
- ACCEPTANCE OF OFFER TO PURCHASE:** Seller Accepts the foregoing offer on the terms and conditions specified above.
 - COUNTEROFFER:** Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached ADDENDUM NO. _____.
 - REJECTION:** Seller rejects the foregoing offer.

Geoff Winkler 5/30/2023
 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE SEPTEMBER 1, 2017. AS OF JANUARY 1, 2018, IT WILL REPLACE AND SUPERSEDE THE PREVIOUSLY APPROVED VERSION OF THIS FORM.

DEPOSIT OF EARNEST MONEY WITH TITLE INSURANCE COMPANY ADDENDUM TO REAL ESTATE PURCHASE CONTRACT ADDENDUM # ONE

THIS IS AN ADDENDUM COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 05/25/2023, including all prior addenda and counteroffers, between Erik Hughes as Buyer, and Geoff Winkler, Receiver as Seller, regarding the Property located at 2701 W. 390 N. Hurricane, UT. The following terms are hereby incorporated as part of the REPC:

1. The REPC is amended as follows: Buyer and Seller agree that the Earnest Money Deposit, or Deposits, will be held with a Title Insurance Company instead of deposited in the Buyer's Brokerage Trust Account. The Title Insurance Company is Southern Utah Title located at: 201 N. Main St. #301 phone number 435-652-4805 and email Dave@sutc.com.

escrow and title to be with Stewart Title

ATTENTION: Buyer and Seller are advised that the Title Insurance Company may require, through separate written instructions, that **BOTH** the Buyer and Seller mutually authorize disbursement of the Earnest Money Deposit, even if the REPC states that no additional written authorization is required, which may result in additional delays and costs for either party to receive the Earnest Money Deposits

Buyer and Seller acknowledge that the Utah Division of Real Estate has no authority over the Title Insurance Company's release or disbursement of the Earnest Money Deposit.

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same. Seller Buyer shall have until 4:45 AM PM Mountain Time on 05/31/2023 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

Erik Hughes 05-25-2023 Buyer Seller Signature (Date) (Time) Geoff Winkler Buyer Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE: Seller Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER: Seller Buyer presents as a counteroffer the terms of attached ADDENDUM NO. ____.

REJECTION: Seller Buyer rejects the foregoing ADDENDUM.

Geoff Winkler 5/30/2023 (Signature) (Date) (Time) (Signature) (Date) (Time)

(Signature) (Date) (Time) (Signature) (Date) (Time)



DISCLOSURE OF INTEREST
ADDENDUM NO. TWO
TO
REAL ESTATE PURCHASE CONTRACT

THIS IS AN [X] ADDENDUM [] COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 05/25/2023, including all prior addenda and counteroffers, between Erik Hughes, as Buyer, and Geoff Winkler, Receiver as Seller, regarding the Property located at 2701 W. 390 N. (the "Property"). The terms of this Addendum are hereby incorporated as part of the REPC, and to the extent the terms of this Addendum modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control.

1. DISCLOSURE OF PRINCIPAL AS LICENSEE OR AS RELATIVE OF LICENSEE.

1.1. Personal Interest. [X] Buyer [] Seller is either: [X] a relative of a real estate broker or salesagent participating in this transaction; or [] a real estate broker or salesagent licensed as such under the laws of the State of Utah, who may share in the brokerage fee paid for in this transaction.

ALL OTHER TERMS of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM/COUNTER OFFER shall remain the same. [X] Seller [] Buyer shall have until 4:45 [] A.M [X] P.M. Mountain Time 05/31/2023, to accept the terms of this ADDENDUM/COUNTEROFFER in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in the ADDENDUM/COUNTER OFFER shall lapse.

Erik Hughes 05-25-2023
[X] Buyer [] Seller Signature Date Time [] Buyer [] Seller Signature Date Time

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

- [] ACCEPTANCE of ADDENDUM/COUNTER OFFER: [] Seller [] Buyer hereby accepts the terms of this ADDENDUM/COUNTER OFFER
[] COUNTER OFFER: [] Seller [] Buyer presents as a counteroffer the terms of attached Counteroffer No. _____

[] Buyer [] Seller Signature Date Time [] Buyer [] Seller Signature Date Time

[] REJECTION: [] Seller [] Buyer rejects the foregoing ADDENDUM/COUNTER OFFER [] Initials
Date _____, _____ Time

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Buyer acknowledges and agrees that this sale is subject to the Seller's receipt of an order approving the sale (the "Sale Order") from the United States District Court (the "District Court"). Absent an order from the District Court providing for a specific closing date or other relief affecting the terms or the timing of the closing of the sale of the subject Property, the closing of the sale shall be governed by the following terms and conditions in addition to those terms set forth in the RPA:

1. The minimum amount of time to close a sale is calculated as follows: Promptly following Buyer's removal of the contingencies reflected in the RPA and receipt of the earnest money deposit, the Receiver will file a Motion for Approval of the Sale, subject to overbids. From the date of the filing of the Motion, it is estimated that the hearing will be in approximately 30 days. Buyer is hereby informed that the Receiver/Seller cannot promise that the District Court will enter the Sale Order on a particular date.

2. Where the sale is subject to an auction sale including overbid proceedings, the Purchase Price contained in the RPA and approved by the Court in the Sale Order shall be the opening auction price. The minimum dollar overbid amount is set at 5% (five percent) over the Purchase Price in the RPA.

3. Where the sale is subject to an auction sale, the Parties will promptly conduct the auction sale of the Property with the Purchase Price as the opening bid, as noted above. Seller shall establish a date for the auction sale and/or Closing Date of no sooner than 5 business days after the date of the Sale Order.

4. Where there is no auction sale, Buyer is obligated to close the sale within 2 weeks of the entry of the Sale Order. If an auction sale is conducted, the prevailing Buyer must close the sale within 3 business days following the date of the auction sale. Seller may in its sole and absolute discretion agree in writing to extend the closing date of the sale.

5. Buyer and Seller have agreed upon an outside closing date of _____ ("Outside Closing Date".) If the sale does not close on or before the Outside Closing Date because of matters or actions outside the control of or through no fault, default or breach of the RPA by the Buyer (including but not limited to Buyer's inability to fund the Purchase Price) then at Buyer's request, Buyer and Seller shall cause the Escrow to release the Buyer's earnest money deposit to the Buyer, the parties shall have no obligation to proceed with the sale, and the Parties shall have no further rights or obligations under the RPA.

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5/30/2023

6. For avoidance of doubt, if the Buyer fails to close and purchase the Property on any date prior to the Outside Closing Date as required herein or as a result of Buyer's default under or breach of the RPA or as otherwise called for in the Sale Order, then the Seller shall be entitled to retain the earnest money deposit without further order of the Court and upon Seller's notice in writing to the Escrow Company

7. Title to be with Stewart Title ("Title Company") – Bonnie Moon
bonnie.moon@stewart.com

8. Title to the Property has been transferred to J&J Consulting Services Inc. Accordingly, throughout the REPC, the term "Seller" shall mean "J&J Consulting Services Inc".

seller

DocuSigned by:
Goff Winklers 5/30/2023
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