

**SETTLEMENT AGREEMENT  
AND  
PURCHASE AND SALE AGREEMENT  
(Former Land Rover Superior Property)**

THIS SETTLEMENT AGREEMENT and PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is made and entered into as of June 18,, 2019 (the “**Effective Date**”) by and between CENTENNIAL VENTURE I LTD. LIABILITY CO., a Colorado limited liability company (“**CV I**”), and the TOWN OF SUPERIOR, a Colorado municipal corporation (“**Town**”) (collectively the “**Parties**” and each individually as a “**Party**”).

**Recitals**

This Agreement is made with respect to the following facts:

A. CV I owns the following described property (collectively, the “**Property**”):

(1) The following real property (collectively, the “**Real Property**”):

(a) The land containing approximately 2.07 acres and legally described on Exhibit A hereto (the “**Land**”);

(b) Any and all easements, rights-of-way and other property interests appurtenant or relating to the Land that CV I owns or may own, including, without limitation, all right, title and interest of CV I, if any, in and to the land lying within any street or roadway adjoining the Land or any vacated or hereafter vacated street or alley adjoining the Land (collectively, the “**Appurtenances**”); and

(c) All improvements located on the Land (the “**Improvements**”).

(2) All right, title and interest of CV I in and to all governmental permits, licenses, certificates and authorizations relating to the construction, use or operation of the Real Property and any storm drainage facilities, including, without limitation, building permits, certificates of occupancy, any utility rights and credits necessary to develop the Real Property and any water or sewer taps or service agreements (collectively, the “**Permits**”);

(3) All right, title and interest of CV I in and to any and all site plans, environmental reports, soils reports, wetland reports, traffic studies, engineering studies or reports and any similar reports or studies that relate to the Real Property (collectively, the “**Studies**”);

(4) All right, title and interest of CV I in and to all unexpired warranties, guarantees and bonds, including, without limitation, all warranties under architectural,

engineering and construction contracts and all manufacturers' warranties or guarantees, relating to the Real Property (the "Warranties").

B. On December 10, 2018, the Town, acting by and through its Board of Trustees (the "BOT"), approved an amendment to the zoning of the Property, and the Town subsequently issued a notice of violation to the CV I, which notice was affirmed by the Town's Board of Adjustment (the "BOA") on January 14, 2019.

C. On January 7, 2019, CV I commenced suit in Boulder County District Court (the "Court"), Case No. 2019CV30014, naming as defendants the Town and the BOT, asserting a claim pursuant to C.R.C.P. 106(a)(4) (the "Litigation"). CV I subsequently amended its complaint in the Litigation on January 22, 2019, naming as an additional defendant the BOA, and asserting additional claims pursuant to C.R.C.P. 106(a)(4), 57, and 106(a)(2).

D. The Parties now desire to settle the matter in order to end the Litigation.

E. In connection with such settlement, CV I desires to sell to the Town, and the Town desires to purchase from CV I, the Property on the terms and conditions hereinafter set forth.

### **Agreement**

In consideration of the mutual promises and agreements set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

#### **1. Disposition of the Litigation.**

1.1 BOT and BOA. The BOT and the BOA are named defendants in the Litigation, but the BOT and BOA are not independent entities and are not authorized to enter into agreements. This Agreement does not create any independent obligation of the BOT or the BOA, however, the BOT and BOA will be bound by the terms of this Section 1 pertaining to disposition of the Litigation.

1.2 Stay of Litigation During Term of Agreement. Concurrently with the execution of this Agreement, the Parties have filed, or will file with the Court no later than the date which is one (1) day after the Effective Date, a joint notice of potential settlement and motion for stay requesting that the Court stay the Litigation and all proceedings until the earlier of the following to occur: (1) the Closing (as defined in Section 3.2); or (2) earlier termination of this Agreement by CV I or the Town. In the event that either Party terminates this Agreement prior to Closing, the Parties agree that the stay will be thereafter lifted and the Litigation may proceed without prejudice to either Party's rights in the Litigation.

1.3 Dismissal of Litigation Following Closing. On or before the date which is two (2) days after the Closing Date (defined below in Section 11.1), CV I shall cause to be filed with the Boulder County District Court a stipulation for dismissal of the Litigation in its entirety, with prejudice, pursuant to C.R.C.P. 41(a)(1)(B), in the form attached hereto as Exhibit B. Each Party shall bear its own fees and costs associated with the Litigation.

1.4 Release of Claims. Effective only upon the Closing, for and in consideration of the mutual promises, covenants and releases set forth herein, and except as otherwise set forth or permitted herein, each Party, on behalf of itself and its owners, partners, managers, members, agents, employees, officers, directors, shareholders, successors and assigns, releases, waives, and forever discharges each other Party, its officers, directors, employees, and attorneys from the claims in the Litigation and any other claims of any kind whatsoever arising from or relating to the Litigation. Notwithstanding the foregoing, this release is not intended to extend to any claims that may arise as a result of breach of this Agreement. This Section 1.4 shall be of no force or effect in the event that this Agreement is terminated prior to Closing.

2. **Purchase and Sale.** Subject to the terms and conditions set forth in this Agreement, CV I agrees to sell, assign and convey to the Town, and the Town agrees to purchase from CV I, the Property.

3. **Purchase Price.** The purchase price for the Property (the “**Purchase Price**”) will be Three Million Eight Hundred Fifty Thousand Dollars (\$3,850,000.00) payable as follows:

3.1 Deposit. Two Hundred Thousand Dollars (\$200,000.00) (the “**Deposit**”), will be paid by the Town to Colorado Escrow and Title Services, LLC, 520 Main Street, Suite C, Longmont, Colorado 80501 (the “**Title Agent**”) by wire transfer of immediately available funds within three (3) days after the Effective Date. The Title Agent will place the Deposit in an interest-bearing account.

3.2 Cash at Closing. Upon closing of the transaction contemplated by this Agreement (the “**Closing**”), the Town will pay to Title Agent, by wire transfer of immediately available funds, the balance of the Purchase Price, subject to the adjustments and prorations provided for herein.

4. **Town’s Investigations.**

4.1 CV I’s Initial Deliveries. Within ten (10) days after the Effective Date, CV I will deliver or cause to be delivered to the Town the following:

4.1.1 Title Insurance Commitment. A current title insurance commitment, including copies of all recorded exceptions to title referred to therein (collectively, the “**Title Commitment**”), showing title to the Real Property to be vested in CV I and committing to insure title to the Real Property

in the Town by issuance of its ALTA extended coverage owner's policy of title insurance in the amount of the Purchase Price. The Town will review the Title Commitment as part of its investigations hereunder and will have the right to negotiate with Title Agent in order to cause Title Agent to modify the Title Commitment to reflect only those exceptions to title that are acceptable to the Town. If the Town does not terminate this Agreement pursuant to Section 4.3, then the exceptions to title disclosed in the Title Commitment as of the expiration of the Inspection Period (*i.e.*, including any endorsements or supplements to the Title Commitment issued prior to such expiration) will be the "**Permitted Exceptions**" hereunder, excluding (i) any delinquent taxes or assessments, (ii) any monetary liens or encumbrances, or (iii) any standard printed exceptions concerning parties in possession, unrecorded easements, encroachments or other matters of survey, mechanics' liens or claims therefor and matters first appearing in the public records after the date of the Title Commitment but before Closing, which standard printed exceptions are deleted upon the issuance of an extended coverage policy. At or prior to Closing, CV I will provide such affidavits to the Title Company as may be necessary to delete such standard printed exceptions and issue an extended coverage policy and CV I will cause any delinquent taxes or assessments and any monetary liens or encumbrances to be paid off or otherwise removed of record.

4.1.2 Copies. Copies of the following: all written Permits; the Studies; and the Warranties (including copies of any construction contracts in which any Warranties are set forth).

4.2 Inspection Period. The Town will have until the date which is forty five (45) days after the Effective Date (the "**Inspection Period**") to investigate the Property and all matters relevant to its acquisition, ownership and operation. Such right of investigation will include, without limitation, the right to have made, at the Town's expense, any studies or inspections of the Property, including without limitation any survey(s) of the Property, that the Town may deem necessary or appropriate. CV I agrees to cooperate reasonably with any such investigations, inspections or studies made by or at the Town's direction so long as such cooperation is at no expense or liability to CV I. CV I agrees to provide the Town and the Town's employees, agents, representatives and contractors with reasonable access to the Property from and after the Effective Date.

4.3 Termination. If the Town determines in its sole discretion that it is dissatisfied with the Property and, prior to the expiration of the Inspection Period, the Town gives CV I written notice stating the Town's election to terminate this Agreement, then the Title Agent will return the Deposit to the Town, this Agreement will terminate and both Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination hereof. If the Town does not give such termination notice prior to the expiration of the Inspection Period, then this Agreement will remain in full force and effect in accordance with its terms and the

Deposit will become nonrefundable to the Town for any reason whatsoever, except as expressly provided to the contrary herein.

4.4 Hold Harmless. The Town agrees to hold CV I harmless from any claim, demand, liability, lien, cost or expense asserted against CV I or the Property arising out of or resulting from any investigations of the Property prior to Closing by the Town or its employees, agents, representatives or contractors.

5. **“As Is” Purchase.**

5.1 Opportunity to Inspect. The Town acknowledges and agrees that: (i) the Town is being given a reasonable opportunity to inspect and investigate the Property and all aspects relating thereto, either independently or through agents, contractors, engineers or consultants of the Town’s choosing; (ii) the Town will inspect and investigate the Property and engage such qualified agents, contractors, engineers or consultants, including, without limitation, environmental consultants, as the Town deems necessary to make all appropriate inquiry regarding the condition of the Property; and (iii) if the Town does not terminate this Agreement pursuant to Section 4.3, then at Closing, except for CV I’s express representations and warranties set forth in Section 7 or in any instrument of conveyance signed by CV I and delivered to the Town at Closing and except for any covenants or agreements of CV I under this Agreement that survive Closing, the Town will acquire and accept the Property in its then-existing condition on an “AS IS, WHERE IS, AND WITH ALL FAULTS” basis.

5.2 No Implied Representations. The Town acknowledges and agrees that, except for CV I’s express warranties and representations in Section 7, NEITHER CV I NOR ANY AGENT, EMPLOYEE, OFFICER, DIRECTOR, BROKER, CONTRACTOR OR REPRESENTATIVE OF CV I HAS MADE, AND CV I SPECIFICALLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY.

5.3 Survival. The provisions of this Section 5 will survive Closing or any termination of this Agreement.

6. **Title Defects**. If, subsequent to the expiration of the Inspection Period and prior to Closing, the Town notifies CV I of the existence of any encumbrance, encroachment, defect in or other matter affecting title, other than the Permitted Exceptions and other than any delinquent taxes or assessments or any monetary liens or encumbrances which CV I is obligated to remove prior to Closing pursuant to Section 4.1.1 (a “**Subsequent Defect**”), CV I will use such efforts and will expend such amount as it may, in its sole judgment, deem appropriate to remove or cure such Subsequent Defect of title prior to Closing. CV I will have no obligation, however, to cure any Subsequent Defect. If CV I does not or is unable to so remove or cure all Subsequent Defects prior to Closing, the Town may: (i) waive all such uncured Subsequent Defects and

accept such title as CV I is able to convey as of Closing with an agreed-upon abatement of the Purchase Price; or (ii) terminate this Agreement, whereupon the Title Agent will return the Deposit to the Town and both Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination hereof.

## 7. CV I's Representations and Warranties.

7.1 Representations and Warranties. CV I represents and warrants to the Town as follows:

7.1.1 Authority. CV I is a limited liability company duly organized and existing and in good standing under the laws of the State of Colorado. CV I has full right and authority to enter into this Agreement and consummate the transaction contemplated hereby. All requisite limited liability company action has been taken by CV I in connection with the entering into of this Agreement and the instruments referenced herein and the consummation of the transaction contemplated hereby. The person(s) signing this Agreement on behalf of CV I is or are authorized to do so.

7.1.2 Consents; Binding Obligations; Violations. All consents and approvals which may be required in order for CV I to enter into this Agreement or consummate the transaction contemplated hereby have been obtained. This Agreement and all documents required hereby to be executed by CV I are and will be valid, legally binding obligations of and enforceable against CV I in accordance with their terms. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby will be in violation of any judgment, order, permit, writ, injunction or decree of any court, commission, bureau or agency to which CV I is subject or by which CV I is bound, or constitute a breach or default under any agreement or other obligation to which CV I is a Party or otherwise bound.

7.2 Effective Date and Changes. All of the foregoing representations and warranties made by CV I are made as of the date of this Agreement. At Closing, CV I will deliver to the Town a certificate pursuant to which CV I will reaffirm the foregoing representations and warranties as of the date of Closing, provided that such certificate may reflect any changes to such representations and warranties of which CV I has become aware prior to Closing. In the event that such certificate indicates any material changes to the foregoing representations and warranties, CV I will not be deemed in default hereunder so long as such representations and warranties were true and correct as of the date of this Agreement and did not become untrue due to CV I's intentional act or omission or breach of this Agreement and, in such event, the Town's sole remedy will be to terminate this Agreement whereupon the Title Agent will return the deposit to the Town and both Parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive any termination hereof. In the event any such certificate does indicate any such changes and the Town does not elect to terminate this

Agreement, the representations and warranties made by CV I to the Town pursuant to this Agreement as of the date of Closing will be deemed made subject to any such changes reflected in such certificate. If prior to Closing, either Party discovers any facts or circumstances that would make any of the foregoing representations or warranties untrue, such Party will promptly disclose the same to the other Party.

7.3 Survival. All of the foregoing representations and warranties of CV I will survive Closing, and will not be deemed merged into any instrument of conveyance delivered at Closing, for a period of one hundred eighty (180) days after Closing. CV I will have no liability to the Town for a breach of any representation or warranty unless written notice containing a description of the specific nature of such breach is given by the Town to CV I within one hundred eighty (180) days after Closing.

## 8. **Town's Representations and Warranties.**

8.1 Representations and Warranties. The Town represents and warrants to CV I as follows:

8.1.1 Authority. The Town has full right and authority to enter into this Agreement and consummate the transaction contemplated hereby. All requisite action has been taken by the Town in connection with the entering into of this Agreement and the instruments referenced herein and the consummation of the transaction contemplated hereby. The person signing this Agreement on behalf of the Town is authorized to do so.

8.1.2 Consents; Binding Obligations; Violations. All consents and approvals which may be required in order for the Town to enter into this Agreement or consummate the transaction contemplated hereby have been obtained. This Agreement and all documents required hereby to be executed by the Town are and will be valid, legally binding obligations of and enforceable against the Town in accordance with their terms. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby will be in violation of any judgment, order, permit, writ, injunction or decree of any court, commission, bureau or agency to which the Town is subject or by which the Town is bound, or constitute a breach or default under any agreement or other obligation to which the Town is a party or otherwise bound.

8.2 Effective Date and Changes. All of the foregoing representations and warranties made by the Town are made as of the date of this Agreement. In the event that there are any material changes to the foregoing representations and warranties, the Town will not be deemed in default hereunder so long as such representations and warranties were true and correct as of the date of this Agreement and did not become untrue due to the Town's intentional act or omission or breach of this Agreement and, in such event, CV I's sole remedy will be to terminate this Agreement whereupon the Title Agent will return the deposit to the Town and both Parties will be relieved of any further

obligations hereunder, except for those obligations which expressly survive any termination hereof.

8.3 Survival. All of the foregoing representations and warranties of the Town will survive Closing, and will not be deemed merged into any instrument of conveyance delivered at Closing, for a period of one hundred eighty (180) days after Closing.

9. **Covenants of CV I.** CV I hereby covenants with the Town as follows:

9.1 New Agreements. Subsequent to the Effective Date, CV I will not enter into any new agreements which will survive Closing and affect the use, operation or enjoyment of the Property after Closing, without the Town's prior written consent, which consent will not be unreasonably withheld or delayed.

9.2 Miscellaneous Covenants. After the date of this Agreement and prior to Closing, CV I agrees: (i) to pay, prior to delinquency, all real property and personal property taxes which become due and payable with respect to the Property; (ii) not to encumber or otherwise adversely change the status of CV I's title to the Property; (iii) to cause to be maintained all property and liability insurance historically carried in connection with the Property; and (iv) to promptly advise the Town of the commencement of any litigation by or against CV I pertaining to the Property.

10. **Conditions Precedent**. In addition to any other express conditions set forth in this Agreement, unless waived by the Party entitled to the benefit thereof, the obligations of either Party to close under this Agreement are subject to satisfaction of the following conditions: that all representations and warranties of the other Party contained in this Agreement (as the same may be modified in accordance with Section 7.2) are true and correct in all material respects as of Closing; and that the other Party has performed all material covenants, agreements and obligations required to be performed by it under this Agreement.

11. **Closing**. The purchase of the Property will be consummated as follows:

11.1 Closing Date. Closing will occur on the date which is fifteen (15) days after the expiration of the Inspection Period, or such earlier date as may be mutually agreed to by the Parties (the "**Closing Date**"). Closing will take place through an escrow with the Title Agent on the Closing Date. All deliveries required to be made by the parties must be delivered to Title Agent by 10:00 a.m. Mountain Time on the Closing Date.

11.2 Closing Documents. CV I and the Town will deliver or cause to be delivered to each other at Closing, as appropriate, the following items (all documents will be duly executed and acknowledged where required):



11.2.1 Special Warranty Deed. A special warranty deed, in the form attached hereto as Exhibit C, conveying the Real Property to the Town, subject only to the Permitted Exceptions.

11.2.2 General Assignment. A general assignment, in the form attached hereto as Exhibit D, pursuant to which CV I will assign all of its right, title and interest in and to the Permits and Studies to the Town, plus any and all third-party consents required for such assignment.

11.2.3 Title Policy. The Title Policy or an unconditional commitment by Title Company to issue the Title Policy promptly after Closing.

11.2.4 Non-foreign Affidavit. An affidavit of CV I that evidences that it is exempt from the withholding requirements of Section 1445 of the Code.

11.2.5 Settlement Sheets and Funds. Settlement statements reflecting the Purchase Price and all adjustments and prorations to be made thereto pursuant to this Agreement including without limitation Section 12, together with any amounts, in immediately available funds, required to be paid by either Party thereunder.

11.2.6 Certificate Concerning Representations. The certificate of CV I described in Section 7.2.

11.3 Further Documents. CV I and the Town will execute and deliver such other documents and will take such other action at Closing as may be necessary or appropriate to carry out their respective obligations under this Agreement, without further representations or warranties other than those contained herein.

11.4 Additional Deliveries. On the Closing Date, CV I will turn over to the Town the originals of all written Permits.

12. **Adjustments and Prorations.** The following adjustments and prorations will be made at Closing and reflected, where appropriate, on the settlement sheets described in Section 11.2.5:

12.1 Ad Valorem Taxes. To the extent the current tax year's real property taxes are paid in arrears, at Closing, CV I will give the Town a credit for that portion of the current tax year's real property taxes attributable to the period of time prior to Closing. Such credit will be based on the most recent assessed valuation and mill levy available, and will be considered a final settlement.

12.2 Operating Expenses. CV I will pay all utility charges and other operating expenses attributable to the Property to the Closing Date.

12.3 Excise, Transfer and Sales Taxes. CV I will be responsible for the payment of all excise, transfer (such as documentary fees or stamps), sales and use taxes imposed with respect to the transaction contemplated by this Agreement.

12.4 Closing Costs. The Town will pay (i) one-half of the Title Agent's closing or escrow fees; (ii) the cost of the Title Policy; (iii) the cost of recording the deed and any other documents requiring recording; (iv) all costs incurred by the Town in connection with the Town's investigations of the Property; and (v) the Town's attorneys' fees. CV I will pay (i) one-half of the Title Agent's closing or escrow fees; and (ii) CV I's attorneys' fees.

12.5 Survival. The Parties' obligations under this Section 12, to the extent not fully discharged by or through Closing, will survive Closing and remain fully enforceable thereafter.

### 13. **Casualty Damage.**

13.1 Notice and Estimate. In the event that the Improvements are damaged by any casualty prior to Closing, CV I will promptly give the Town written notice of such occurrence, and as soon thereafter as practicable, will provide the Town with an estimate made by CV I's general contractor of the cost and amount of time required to repair such damage. If it is so estimated that it will take longer than until the Closing Date to repair such damage, then the Town will be given an opportunity to review and approve any construction contract which CV I proposes to enter into to have such damage repaired and the Town will not unreasonably withhold or delay such approval.

13.2 Damage. Regardless of the estimated cost of repairing such damage, CV I will promptly contract for and commence the repairs and complete so much thereof as may be accomplished prior to the Closing Date. In the event such repairs are not completed on or before the Closing Date, CV I will assign to the Town so much of the insurance proceeds resulting from such damage as have not then been expended for repairs, and CV I will give the Town a credit for the amount of any insurance deductible as has not then been expended for repairs.

### 14. **Remedies.**

14.1 CV I's Default. In the event that CV I fails to perform any of the material covenants or agreements contained herein which are to be performed by CV I, the Town may, at its option and as its only available remedies: (i) terminate this Agreement by giving written notice of termination to CV I whereupon the Title Agent will return the Deposit to the Town and both the Town and CV I will be relieved of any further obligations or liabilities hereunder, except for those obligations which expressly survive any termination hereof; (ii) obtain specific performance of this Agreement; or (iii) seek an award of damages for CV I's default.

14.2 Town's Default. In the event that the Town fails to perform any of the material covenants or agreements contained herein which are to be performed by the Town, CV I may, as its exclusive remedy, terminate this Agreement by giving written notice of termination to the Town whereupon the Title Agent will pay the Deposit to CV I as liquidated damages and both the Town and CV I will be relieved of any further obligations or liabilities hereunder, except for those obligations which expressly survive any termination hereof. The Parties agree that CV I's damages in the event of termination by the Town would be impossible to calculate, thus liquidated damages are appropriate in this circumstance.

14.3 Defaults after Closing or Termination. The limitations on the parties' remedies set forth in this Section 14 will not be deemed to prohibit either party from (i) subject to Sections 7.3 and 8.3, seeking damages incurred during the period of time after Closing that a representation or warranty given as of the Closing Date by the other party hereunder survives Closing, for the other party's breach of such representation or warranty discovered after such Closing; (ii) seeking damages for the other party's failure to perform after Closing hereunder any obligation hereunder which expressly survives Closing; or (iii) seeking damages for the other party's failure to perform after any termination of this Agreement any obligation hereunder which expressly survives such termination; provided, however, that in no event will either party be entitled to recover from the other any punitive, consequential or speculative damages.

## 15. **General Provisions.**

15.1 Time and Dates. Time is of the essence under this Agreement. For purposes of determining dates under this Agreement, a day that is a specified number of days after a given date will be the day that occurs the specified number of days after (but not including) the given date (so that, *e.g.*, the day that is ten (10) days after January 1 will be January 11). If any date set forth in this Agreement for the delivery of any document or the happening of any event (such as, for example, the expiration of the Inspection Period or the Closing Date) should, under the terms hereof, fall on a weekend or holiday, then such date will be automatically extended to the next succeeding weekday that is not a holiday.

15.2 Entire Agreement. No change or modification of this Agreement will be valid unless the same is in writing and signed by the Parties. This Agreement contains the entire agreement between the Parties relating to the purchase and sale of the Property. All prior negotiations between the Parties are merged in this Agreement and there are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between the Parties other than as set forth herein.

15.3 Governing Law and Venue. This Agreement will be construed and enforced in accordance with the laws of the State of Colorado, and venue for any legal action arising out of this Agreement shall be in Boulder County District Court.

15.4 Notices. All notices, demands or other communications required or permitted to be given hereunder will be in writing and any and all such items will be deemed to have been duly delivered upon personal delivery; or as of the third business day after mailing by United States mail, certified, return receipt requested, postage prepaid, addressed as follows; or as of 12:00 Noon on the immediately following business day after deposit with Federal Express or a similar overnight courier service that provides evidence of receipt, addressed as follows; or upon actual receipt if transmitted by email to the email address set forth below:

If to CV I, to:

CENTENNIAL VENTURE I LTD. LIABILITY CO.  
1644 Platte Street, Suite 130  
Denver, Colorado 80202  
Attention: Randy T. Nichols, James R. Loftus  
Email: [RNichols@nicholspartnership.com](mailto:RNichols@nicholspartnership.com); [jrl@loftusdevelopments.com](mailto:jrl@loftusdevelopments.com)

With a copy to:

Otten Johnson Robinson Neff + Ragonetti, P.C.  
950 17<sup>th</sup> Street, Suite 1600  
Denver, Colorado 80202  
Attention: Brian J. Connolly  
Email: [bconnolly@ottenjohnson.com](mailto:bconnolly@ottenjohnson.com)

If to the Town, to:

Town of Superior  
124 East Coal Creek Drive  
Superior, Colorado 80027  
Attention: Town Manager  
Email: [mattm@superiorcolorado.gov](mailto:mattm@superiorcolorado.gov)

or to such other address or person that one Party notifies the other of in accordance with this Section.

15.5 No Recording. This Agreement will not be recorded by either Party with the Boulder County Clerk and Recorder, and any violation of this provision by the Town will, at the option of CV I to be exercised by written notice from CV I to the Town, cause this Agreement to be null and void.

15.6 Headings. The headings which appear in some of the Sections of this Agreement are for purposes of convenience and reference and are not in any sense to be construed as modifying the Sections in which they appear.

15.7 Counterparts; Electronic Delivery. This Agreement may be executed in counterparts, all such counterparts will constitute the same agreement and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by email and upon receipt will be deemed originals and binding upon the Parties, regardless of whether originals are delivered thereafter.

15.8 Assignment. This Agreement cannot be assigned in whole or in part by either Party without the prior written consent of the other.

15.9 Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the Parties and their respective heirs, personal representatives, successors and assigns.

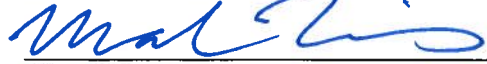
16.10. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

16.11. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

***[Signature Pages Follow]***

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

TOWN OF SUPERIOR:



~~Clint Folsom~~, Mayor Pro Tem  
MARK LACIS



Phyllis Hardin, Town Clerk

By: \_\_\_\_\_  
\_\_\_\_\_

CV I:

CENTENNIAL VENTURE I LTD. LIABILITY  
CO., a Colorado limited liability company

Date: 6/14, 2019

By:   
Title: MANAGER

**Exhibit A**

**LEGAL DESCRIPTION OF THE LAND**

Lot 1  
Block 1  
Centennial Venture IV Replat A  
County of Boulder  
State of Colorado



**Exhibit B**

**STIPULATION FOR DISMISSAL**

*[Follows This Page]*

DISTRICT COURT, BOULDER COUNTY  
COLORADO

Boulder County Justice Center  
1777 Sixth Street  
Boulder, CO 80302

**Plaintiff(s):**

CENTENNIAL VENTURE I, LTD. LIABILITY CO., a  
Colorado limited liability company,

v.

**Defendant(s):**

**BOARD OF TRUSTEES OF THE TOWN OF  
SUPERIOR, COLORADO; BOARD OF ADJUSTMENT  
OF THE TOWN OF SUPERIOR, COLORADO; and  
TOWN OF SUPERIOR, COLORADO.**

Attorneys for Plaintiff:

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Denver, Colorado 80202  
Telephone: 303 825 8400  
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**▲ COURT USE ONLY ▲**

Case No.: 2019CV30014

Division: 5

Denver, Colorado 80202 Telephone: 303 951 2095 <a href="mailto:klc@hpwclaw.com">klc@hpwclaw.com</a> <a href="mailto:dph@hpwclaw.com">dph@hpwclaw.com</a>	
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**STIPULATION FOR DISMISSAL**

Plaintiff CENTENNIAL VENTURE I LTD. LIABILITY CO. (“CV I”), and Defendants Board of Trustees of the Town of Superior, Colorado, Board of Adjustment of the Town of Superior, Colorado, and Town of Superior, Colorado (collectively, “Town” and collectively with CV I, the “Parties”), each through their undersigned attorneys, respectfully submit this Stipulation for Dismissal and request entry of an order approving this Stipulation and making the same an order of this Court. The Parties stipulate to dismissal of all claims asserted as follows:

1. All of CV I’s claims will be dismissed with prejudice.
2. Each party shall be responsible for and shall bear its own attorneys’ fees and costs.

WHEREFORE, CV I and the Town respectfully request that the Court dismiss this case with prejudice as to all of CV I’s claims, with each party to bear its own attorneys’ fees and costs, and grant such further and different relief as the Court deems just and proper.

Respectfully submitted this \_\_\_ day of \_\_\_\_\_, 2019.

HOFFMANN, PARKER, WILSON  
& CARBERRY, P.C.

OTTEN, JOHNSON, ROBINSON,  
NEFF & RAGONETTI, P.C.

By: /s/ \_\_\_\_\_  
Kendra Carberry  
Daniel Harvey

By: /s/ \_\_\_\_\_  
Bill E. Kyriagis  
Brian J. Connolly  
Andrew L.W. Peters

**Attorneys for Plaintiff CENTENNIAL  
VENTURE I, LTD. LIABILITY CO., a  
Colorado limited liability company**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the \_\_\_ day of \_\_\_\_\_, 2019, a true and correct copy of the **STIPULATION FOR DISMISSAL** was served electronically via Colorado Courts E-Filing System, and/or by placing a true and correct copy of the same in the United States mail, first-class, postage prepaid, and/or via electronic mail, or as otherwise indicated, as follows:

Kendra L. Carberry  
Daniel P. Harvey  
Hoffmann, Parker, Wilson & Carberry, P.C.  
511 16<sup>th</sup> Street, Suite 610  
Denver, CO 80202  
klc@hpwclaw.com  
dph@hpwclaw.com  
*Attorneys for Defendants*

/s/ \_\_\_\_\_

**Exhibit C**

**FORM OF SPECIAL WARRANTY DEED**

*[Follows This Page]*



**EXHIBIT A**

Legal Description of the Property

Lot 1  
Block 1  
Centennial Venture IV Replat A  
County of Boulder  
State of Colorado



**EXHIBIT B**

Permitted Exceptions

*[To Be Inserted]*

**Exhibit D**

**FORM OF GENERAL ASSIGNMENT**

*[Follows This Page]*

## GENERAL ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, CENTENNIAL VENTURE I LTD. LIABILITY CO., a Colorado limited liability company ("Assignor"), does hereby transfer, convey, set over, bargain, sell and assign, free and clear of all liens and encumbrances, unto the TOWN OF SUPERIOR, a Colorado municipal corporation ("Assignee"), the following (the "Assignment"):

1. All right, title and interest of Assignor in and to all governmental permits, licenses, certificates and authorizations relating to the construction, use or operation of the real property legally described on the attached **Exhibit A** (the "Real Property") and any storm drainage facilities, including, without limitation, building permits, certificates of occupancy, any utility rights and credits necessary to develop the Real Property and any water or sewer taps or service agreements;

2. All right, title and interest of Assignor in and to any and all site plans, environmental reports, soils reports, wetland reports, traffic studies, engineering studies or reports and any similar reports or studies that relate to the Real Property; and

3. All right, title and interest of Assignor in and to all unexpired warranties, guarantees and bonds, including, without limitation, all warranties under architectural, engineering and construction contracts and all manufacturers' warranties or guarantees, relating to the Real Property, to the extent that they relate to the Real Property and are assignable.

4. Facsimiles of executed copies hereof may be delivered by telecopy, email or other electronic means and upon receipt, such facsimile copies will be deemed originals and binding upon the party hereto.

*[Signature page follows]*

IN WITNESS WHEREOF, this Assignment is executed by the Assignor as of this  
\_\_\_\_ day of \_\_\_\_\_, 2019.

ASSIGNOR:

CENTENNIAL VENTURE I LTD. LIABILITY  
CO., a Colorado limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**Legal Description of Real Property**

Lot 1  
Block 1  
Centennial Venture IV Replat A  
County of Boulder  
State of Colorado