

REAL ESTATE PURCHASE & SALE AGREEMENT
Overlook Estates Addition 3
(Lot [REDACTED])

AS 34.08.520 REQUIRES A DECLARANT TO PREPARE A PUBLIC OFFERING STATEMENT CONFORMING TO THE REQUIREMENTS OF AS [34.08.530](#) , [34.08.540](#), [34.08.550](#), AND [34.08.560](#).

WITHIN FIFTEEN (15) DAYS OF RECEIPT OF A PUBLIC OFFERING STATEMENT, A PURCHASER, BEFORE CONVEYANCE, MAY CANCEL ANY CONTRACT FOR PURCHASE OF A LOT.

IF A PERSON REQUIRED TO DELIVER A PUBLIC OFFERING STATEMENT UNDER §530 THE UNIFORM COMMON INTEREST OWNERSHIP ACT (A.S. 34.08 OF ALASKA STATUTES) ("**ACT**") FAILS TO PROVIDE A PURCHASER TO WHOM A LOT HAS BEEN CONVEYED WITH THE PUBLIC OFFERING STATEMENT AND ANY AMENDMENTS REQUIRED UNDER THE ACT, THE PURCHASER, IN ADDITION TO ANY RIGHT TO DAMAGES OR OTHER RELIEF, IS ENTITLED TO RECEIVE FROM THE PERSON AN AMOUNT EQUAL TO TEN PERCENT (10%) OF THE SALE PRICE OF THE LOT, PLUS TEN PERCENT (10%) OF THE SHARE, PROPORTIONATE TO THE COMMON EXPENSE LIABILITY, OF AN INDEBTEDNESS TO THE ASSOCIATION SECURED BY SECURITY INTEREST ENCUMBERING THE COMMON INTEREST COMMUNITY.

A PURCHASER WHO RECEIVES THE PUBLIC OFFERING STATEMENT MORE THAN FIFTEEN (15) DAYS BEFORE SIGNING A CONTRACT CANNOT CANCEL THE CONTRACT.

This REAL ESTATE PURCHASE AND SALE AGREEMENT ("**Agreement**") is made and entered into by and between EKLUTNA, INC. whose mailing address is c/o [REDACTED] 16515 Centerfield Drive, Suite 201, Eagle River, Alaska 99577 ("**Seller**"), and [REDACTED] whose mailing address is [REDACTED] ("**Buyer**"), for the purchase and sale of the surface estate in that certain real property situated in Eagle River, Alaska, particularly described as:

Lot [REDACTED] of OVERLOOK ESTATES ADDITION 3, according to the official plat thereof, Plat No. 2021-79, records of the Anchorage Recording District, Third Judicial District, State of Alaska;

and all rights appurtenant thereto, together with infrastructure, fixtures and other improvements thereon (collectively the "**Property**").

1. Purchase Price. The total purchase price for the Property shall be [REDACTED] Dollars and no/100 (\$ [REDACTED].00) (the "**Purchase Price**"). Subject to the terms and conditions of this Agreement, and the adjustments and prorations described in this Agreement, the Purchase Price shall be paid in the following manner:

1.1. Deposit of Earnest Money. At the time of executing this Agreement (check one):

Buyer shall deposit with Seller a check in the amount of [REDACTED] and no/100 (\$ [REDACTED].00) as an earnest money deposit (the "**Deposit**"), payable to Eklutna Real Estate Services Trust. Seller shall cause Eklutna Real Estate Services Trust to hold the Deposit in trust to be applied against the total

Purchase Price at the Closing or otherwise disposed of as provided herein. The Deposit is non-refundable to Buyer except as expressly set forth in this Agreement.

Pursuant to the *Lot Reservation and Intent to Purchase* dated _____, 20____, Seller has previously deposited with Seller a check in the amount of _____ and no/100 (\$_____.00), payable to Eklutna Real Estate Services Trust (the "**Deposit**"). Seller shall cause Eklutna Real Estate Services Trust to hold the Deposit in trust to be applied against the total Purchase Price at the Closing or otherwise disposed of as provided herein. At the time of signing this Agreement, the Deposit shall become non-refundable to Buyer except as expressly set forth in this Agreement.

1.2. Cash at Closing. At the Closing, Buyer shall pay the balance of the Purchase Price for the Property by wire transfer, certified check, or cashier's check to the order of Seller. Such balance is subject to adjustment as provided in Section 6 of this Agreement.

2. Inspections and Acceptance. Buyer acknowledges that, prior to execution of this Agreement, Buyer has had an opportunity to inspect the Property and the improvements located thereon or associated therewith, including but not limited to the utilities, utility stub-outs and lateral lines, the location of easements, the availability and type of utilities for the Property, and the soils or other conditions on, under, about or concerning the Property, and Buyer accepts the Property and such improvements in their current condition. Buyer further acknowledges that Seller has made no representations as to the soils or other conditions on, under, about or concerning the Property and Buyer is not relying on any representations of Seller with respect thereto. Buyer acknowledges and agrees that, after the execution of this Agreement, the sole obligation of Seller shall be to deliver possession of the Property to Buyer on the Closing Date in substantially the same condition (normal wear and tear and casualty loss excepted) as existed on the date of execution of this Agreement by Seller.

3. Title and Permitted Exceptions. Seller will not provide or pay for a Standard Owner's policy of title insurance at Closing. Buyer acknowledges that it is solely responsible for making such investigations and obtaining assurances as to the state of title to the Property as Buyer deems prudent or necessary. The cost of any title insurance that is necessary or desirable by Buyer shall be at Buyer's sole expense.

Notwithstanding the foregoing, within three (3) business days after the execution of this Agreement, Buyer shall order either a title report or a preliminary commitment for issuance of a title insurance policy on the Property, issued by a title insurer acceptable to Buyer (the "Title Insurer"). Buyer shall direct the Title Insurer to provide Seller with a copy of the report or a preliminary commitment at the time it is provided to Buyer. Buyer shall have seven (7) days after receipt of the report or preliminary commitment to provide to Seller a letter setting forth all of Buyer's objections to the state of title to the Property, and Seller shall have ten (10) days after receipt of such letter to correct the defects in title objected to by Buyer. If Seller is unwilling or unable to correct such defects within such ten (10) day period, Buyer shall have the option to waive such defect or terminate this Agreement and obtain a refund of the Deposit. Any exceptions

(b) An executed *Construction Standards and Re-Sale Agreement*, in the form attached to this Agreement as **Attachment A**; and

(c) Such additional documents as might be reasonably required by Seller or Title Company to consummate the sale of the Property to Buyer.

5.4 Closing Costs. Each party shall pay their own attorney's fees. Seller shall pay for the preparation of the Statutory Warranty Deed. Buyer shall pay all financing costs and recordation costs for any financing documents. The escrow closing fee shall be split equally between Buyer and Seller. All other closing costs shall be paid by Buyer.

5.5 Other Costs. Pursuant to Section 10 of the Public Offering Statement, *Initial or Special Fees*, at Closing, a non-refundable payment will be collected from Buyer in an amount equal to two (2) months Common Expense assessments, at the rate in effect at the time of sale. This payment is not a deposit, and it does not apply toward the Purchase Price.

5.6 Possession. Possession of the Property shall be delivered to Buyer on the Closing Date. Effective on the Closing Date, beneficial ownership and the risk of loss of the Property shall pass from Seller to Buyer.

6. Adjustments and Prorations. The Purchase Price for the Property shall be adjusted and prorated at the Closing as follows:

6.1. Accounts Payable. All sums due for accounts payable which were owing or incurred by the Property prior to the Closing Date, including any dues, assessments or other charges noticed and levied against the Property prior to the Closing Date, will be paid by Seller, and Seller agrees to indemnify and hold Buyer harmless with respect thereto. All accounts payable incurred on or after the Closing Date will be paid by Buyer and Buyer agrees to indemnify and hold Seller harmless with respect thereto.

6.2. Property Taxes. All property taxes and installments of special assessments, if any, for the calendar year and prior years will be paid by Seller. All property taxes and special assessments, if any, whether payable in installments or not, for the calendar year with respect to the Property will be prorated to the Closing Date, based on the latest available tax rate and assessed valuation.

7. Entry Prior to Closing. Buyer shall not excavate, perform any construction on, or otherwise enter onto the Property prior to Closing without Seller's advance written consent, which consent may be withheld for any reason whatsoever. Without limiting the foregoing, Seller may condition its consent upon Buyer's provision of a bond or other assurances as Seller may request in its sole discretion. Seller or its representatives shall have the right to accompany Buyer or its representatives during any entry upon the Property. Buyer shall indemnify and hold Seller harmless from and against any loss, claim or liability (including, without limitation, court costs and reasonable attorney's fees) to the Property arising or resulting from the negligence or willful misconduct of Buyer, its agents, employees or contractors during any entry upon the Property prior to Closing, and Buyer shall repair any and all physical damage done to the Property by

Buyer, its agents, employees or contractors during such entry.

8. Seller's Representations and Warranties. Seller represents and warrants to Buyer as of the date of Closing that:

(A) Seller is authorized and permitted to enter into this Agreement and to perform all covenants and obligations of Seller hereunder, and Seller's right to execute this Agreement is not limited by any other agreements. The person signing this Agreement has been authorized by Seller to do so.

(B) The execution and delivery of this Agreement, the consummation of the transaction described herein and compliance with the terms of this Agreement will not conflict with, or constitute a default under, any agreement to which Seller is a party or by which Seller or the Property is bound, or violate any regulation, law, court order, judgment, or decree applicable to Seller or the Property.

(C) Seller is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and applicable regulations.

(D) The Property is not subject to any leases, tenancies or rights of persons in possession.

(E) The subsurface of the Property is owned by Cook Inlet Region, Inc.

9. Buyer's Representations and Warranties. Buyer represents and warrants to Seller that, at the date of execution hereof and at the date of closing:

(A) This Agreement constitutes the legal, valid, and binding obligation of Buyer enforceable in accordance with its terms, Buyer has full power and authority to enter into and perform the terms and conditions of this Agreement, and Buyer has obtained all necessary approvals and consents to the purchase of the Property as contemplated by this Agreement.

(B) The compliance with or fulfillment of the terms and conditions of this Agreement will not conflict with, violate, or result in a breach of the terms, conditions, or provisions of, or constitute a default under, any contract or agreement to which Buyer is a party or by which Buyer is otherwise bound, or violate any regulation, law, court order, judgment, or decree applicable to Buyer.

(C) There are no pending or threatened actions or proceedings against Buyer that, if determined adversely to Buyer, would materially adversely affect Buyer's ability to perform its obligations under this Agreement or that would enjoin or prevent the consummation of the Closing.

(D) Buyer has independently investigated and inspected the Property to its satisfaction and is qualified to make such inspection, and Buyer is relying on such

independent investigation and inspection and, except for Seller's representations and warranties set forth herein or in the Public Offering Statement, Buyer is not relying on any information provided by Seller, any of Seller's representatives or employees, or any statements (oral or written) which may have been made or may be made (or purportedly made) by Seller or any of its representatives or employees, in determining whether to purchase the Property.

(E) Buyer has read this Agreement in its entirety, the Public Offering Statement furnished for Overlook Estates Addition 3 and the attachments thereto, the Declaration (and amendments thereto), the Articles of Incorporation and the Bylaws of the Association, and Buyer agrees to be bound by the same.

10. Buyer's Receipt of Public offering Statement; Right to Cancel. Buyer acknowledges that Overlook Estates Addition 3 is a Planned Community as defined by the Uniform Common Interest Ownership Act, AS 34.08, *et. seq.*, (the "Act"). Buyer acknowledges that, prior to execution of this Agreement, Seller has delivered to Buyer a Public Offering Statement for Overlook Estates Addition 3. Buyer may cancel this Agreement within fifteen (15) days after Buyer's receipt of the Public Offering Statement, provided that the cancellation occurs before conveyance of the Property to Buyer. If Buyer wishes to cancel this Agreement within fifteen (15) days after Buyer's receipt of the Public Offering Statement, Buyer may do so by delivering written notice of the cancellation to Seller or by mailing the notice to Seller or the listing agent for Seller. Cancellation within fifteen (15) days after receipt of the Public Offering Statement is without penalty and Buyer will receive a full refund of the Deposit.

11. Disclaimer of Warranties. Buyer acknowledges and agrees that, except as expressly set forth herein, and except for implied warranties under the provisions of AS 34.08.640, Seller has not made, does not make, and specifically disclaims any and all representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to the Property, including, but not limited to: (a) the nature, manner, quality, characteristics or condition of the Property, or any portion thereof, on the surface or subsurface thereof, whether or not obvious, visible or apparent; (b) the use, income or potential income to be derived from the Property; (c) the suitability of the Property for any and all activities and uses which buyer may conduct thereon; (d) the presence, or absence of, or contamination by hazardous materials of the Property, or the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body, including, but not limited to, any state or federal environmental law, rule or regulation; (e) the compliance of or by the Property or its operation with any state or federal accessibility law rule or regulation, including, without limitation, the Americans with Disabilities Act; (f) the soil conditions, drainage, detention requirements, flooding characteristics, utilities or other conditions existing in, on or under the Property; or (g) any other matter with respect to the Property. Except as otherwise expressly set forth herein or in the Public Offering Statement, Buyer hereby waives any such representation, warranty, promise, covenant, agreement or guaranty. Except as otherwise expressly set forth herein or in the Public Offering Statement, and excepting implied warranties as set forth in AS 34.08.640, Seller is conveying the Property to Buyer "AS IS, WHERE IS". The foregoing provisions shall survive the Closing in all respects.

12. Default; Remedy. In the event that either party fails to perform such party's obligations under this Agreement (except as excused by the other's default), the party claiming default shall promptly make written demand for performance.

12.1 If Buyer fails to comply with such written demand within ten (10) business days after receipt thereof, Seller shall have the option to either waive such default or terminate this Agreement. If Seller terminates this agreement pursuant to this Section 12, then Seller shall retain the Deposit, and Seller shall be entitled to pursue any and all other rights and remedies available to Seller at law or in equity.

12.2 If Seller fails to comply with such written demand within ten (10) business days after receipt thereof, Buyer will have the option to either waive such default or terminate this Agreement.

12.2.1 If Seller's default occurs prior to Closing and Buyer terminates this agreement pursuant to this Section 12, the Deposit shall be refunded to Seller, and such refund shall be Seller's sole and exclusive remedy. Buyer specifically waives any right to specific performance of this Agreement or to maintain an action for damages.

12.2.2 If Seller's default occurs after Closing, Buyer's remedy shall be limited to, at Seller's option, (i) Buyer's direct damages, or (ii) rescission and return of the Purchase Price (but no damages). **UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

12.3 Notwithstanding the foregoing, if the nature of a default is such that the defaulting party reasonably requires more than ten (10) days to cure the breach, then the defaulting party shall have a reasonable time in which to cure, which time shall not exceed thirty (30) days unless a longer time is consented to in writing by the non-defaulting party.

13. Commissions; Brokers. Seller represents and warrants to Buyer that it has engaged **Eklutna Real Estate Services, LLC**, an Eklutna, Inc. subsidiary, in connection with the negotiations leading to this Agreement, and Seller shall indemnify Buyer against and hold Buyer harmless from any and all loss, damage, liability, cost or expense, including attorneys' fees, suffered or incurred by Buyer arising out of or relating to any claim for real estate commission made by any real estate agent or broker engaged by Seller.

(Buyer to initial applicable paragraph below)

____ Buyer represents and warrants to Seller that it has engaged
_____ (“Buyer’s Broker”) in connection with the negotiations leading to

this Agreement, and Buyer shall indemnify Seller against and hold Seller harmless from any and all loss, damage, liability, cost or expense, including attorneys' fees, suffered or incurred by Seller arising out of or relating to any claim for real estate commission made by any real estate agent or broker engaged by Buyer. Buyer's Broker (identified above) is to be paid by Buyer.

_____ Buyer represents and warrants to Seller that it has engaged no broker in connection with the negotiations leading to this Agreement, and in any event Buyer shall indemnify Seller against and hold Seller harmless from any and all loss, damage, liability, cost or expense, including attorneys' fees, suffered or incurred by Seller arising out of or relating to any claim for real estate commission made by any real estate agent or broker engaged by Buyer.

14. Indemnification. Buyer agrees to indemnify, defend, and hold harmless Seller and its shareholders, directors, officers, employees, trustees, agents, attorneys, insurers, sureties, parent and subsidiary and affiliated corporations, successors and assigns from and against any and all liabilities, claims, damages, losses, costs and expenses, including without limitation attorneys' fees and other expenses of litigation or arbitration, arising from or related in any way to: (i) Buyer's breach of this Agreement; and/or (ii) Buyer's ownership, development or re-sale of the Property, including without limitation any claims by contractors, subcontractors, architects, or any other third party having dealings with Buyer concerning the Property, including persons who purchase the Property from Buyer.

15. Arbitration of Disputes. The Parties shall cooperate in good faith to resolve any differences or disputes arising out of or relating to the Property or this Agreement. Any controversy, claim or dispute of whatever nature arising between Buyer and Seller, including but not limited to those arising out of or relating to the construction, interpretation, performance, breach, termination, enforceability or validity of this Agreement, shall be determined by arbitration, by one arbitrator in Anchorage, Alaska, governed and administered by the American Arbitration Association under its Commercial Arbitration Rules. The arbitrator shall award the prevailing party reasonable expenses and costs, including reasonable attorneys' fees, plus interest on the amount due. The arbitrator's decision shall be final and binding, and judgment may be entered thereon in any court having jurisdiction.

16. Miscellaneous.

16.1 Obligation of Good Faith. The parties to this Agreement shall have a duty to act fairly and in good faith in the performance and enforcement of this Agreement. Buyer and Seller shall execute any and all documents necessary to effectuate the intent of this Agreement. The parties agree and acknowledge that time is of the essence of this Agreement.

16.2 Attorney's Fees. In any suit or action to enforce this Agreement or any term or provision hereof, or to interpret this Agreement, and in any appeal therefrom, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorneys' fees.

16.3 Notices. All notices, waivers, elections, approvals and demands required or permitted to be given hereunder shall be in writing and shall either be personally delivered, transmitted by facsimile, or mailed, postage prepaid, certified mail, return receipt requested, to the address for each party designated herein. Either party hereto may, by proper notice to the other, designate any other address for the giving of notice. Any notice shall be effective when personally delivered or, if mailed as provided herein, three (3) days after the date deposited in the mail, or, in the case of facsimile notice, when sent, if answer back or confirmation is received.

16.4 Alaska Disclosures in Residential Real Property Transfers (AS 34.70.010 et seq.). Buyer and Seller agree that the sale of the Property described herein is not subject to the disclosure requirements of AS 34.70.010 et seq., and Buyer otherwise waives the application of such statute.

16.5 Binding Effect and Assignment. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto, and their respective successors, assigns and personal representatives. Buyer's rights and obligations under this Agreement are not assignable, in whole or in part, without the express written consent of Seller, which may be withheld in Seller's sole discretion.

16.6 General. This Agreement constitutes the entire agreement between Buyer and Seller with respect to the matters covered herein, and this Agreement supersedes all prior agreements between them, written or oral. Buyer and Seller acknowledge and agree that there are no other agreements, understandings, warranties or representations between Buyer and Seller except as set forth herein and except as provided in AS 34.08.640. This Agreement may be modified only in a writing signed by Buyer and Seller. Except as otherwise provided herein, any waivers hereunder must be in writing. No waiver of any right or remedy in the event of default hereunder shall constitute a waiver of such right or remedy in the event of any subsequent default. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof. The provisions of this Agreement and the obligations of the parties hereunder shall survive the Closing.

16.7 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Alaska.

This agreement has significant legal and financial consequences. If you do not understand the effect of any part of this Agreement, you are advised to seek independent legal and financial counsel, including tax advice from a tax attorney or CPA, before signing.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

Signed this _____ day of _____, 2022.

BUYER:

Address: _____

Telephone: _____

By: _____

By: _____

Date: _____

SELLER:

EKLUTNA, INC.

Address: 16515 Centerfield Drive, Suite 201
Eagle River, AK 99577

Telephone: (907) 696-2828

Facsimile: (907) 696-2845

By: _____
Kyle Foster, CEO

Date: _____

Attachment A

CONSTRUCTION STANDARDS AND RE-SALE AGREEMENT *(Appears on the following pages)*