

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

3  
4 **CONTRACT TO BUY AND SELL REAL ESTATE**  
5 **(LAND)**  
6

7 Date: September 28, 2012

8 **1. AGREEMENT.** Buyer, identified in § 2.1, agrees to buy, and Seller, identified in § 2.3, agrees to sell, the  
9 Property described below on the terms and conditions set forth in this contract (Contract).

10 **2. PARTIES AND PROPERTY.**

11 **2.1. Buyer.** Buyer, \_\_\_\_\_, will take title  
12 to the Property described below as  **Joint Tenants**  **Tenants In Common**  **Other** \_\_\_\_\_

13 **2.2. Assignability and Inurement.** This Contract Shall not be assignable by Buyer without Seller’s prior  
14 written consent. Except as so restricted, this Contract shall inure to the benefit of and be binding upon the heirs,  
15 personal representatives, successors and assigns of the parties.

16 **2.3. Seller.** Seller, Fortune I, LLC, a Washington limited liability company, is the current owner of the  
17 Property described below.

18 **2.4. Property.** The Property is the following legally described real estate in the County of Huerfano,  
19 Colorado, as described on **Exhibit A** attached hereto and incorporated herein, together with the interests, easements,  
20 rights, benefits, improvements and attached fixtures appurtenant thereto.

21 The Seller is excluding from the sale those mineral rights described on **Exhibit B** attached hereto and  
22 incorporated herein (Property).

23 **2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):

24 **2.5.1. Fixtures.** All fixtures attached to the Property on the date of this Contract.

25 **Other Fixtures:** None. If any fixtures are attached to the Property after the date of this Contract, such additional  
26 fixtures are also included in the Purchase Price.

27 **2.5.2. Personal Property.** The Personal Property described on **Exhibit C** attached hereto and  
28 incorporated herein. The Personal Property to be conveyed at Closing shall be conveyed by Seller free and clear of  
29 all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except none.  
30 Conveyance shall be by bill of sale or other applicable legal instrument.

31 **2.5.3. Trade Fixtures.** None.

32 **2.5.4. Water Rights, Water and Sewer Taps.**

33 **2.5.4.1. Deeded Water Rights.** Water rights described on **Exhibit D** attached hereto and  
34 incorporated herein. Any water rights shall be conveyed by bargain and sale deed.

35  **2.5.4.2. Well Rights.** If any water well is to be transferred to Buyer, Seller agrees to supply  
36 required information about such well to Buyer. Buyer understands that if the well to be transferred is a Small  
37 Capacity Well or a Domestic Exempt Water Well used for ordinary household purposes, Buyer shall, prior to or at  
38 Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the  
39 Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer shall complete a  
40 registration of existing well form for the well and pay the cost of registration. If no person will be providing a  
41 closing service in connection with the transaction, Buyer shall file the form with the Division within sixty days after  
42 Closing. The Well Rights are described on **Exhibit E** attached hereto and incorporated herein.

43 **2.5.5. Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows that,  
44 subject to the terms of any lease on the Property, Buyer shall have all rights to crops growing, but unharvested as of  
45 the date hereof, unless such crops were planted and to be harvested by a tenant on the Property.

46 **2.6. Exclusions.** The following items are excluded (Exclusions): None.  
47

48 **3. DATES AND DEADLINES.**

Event	Date or Deadline
<b>Closing and Possession</b>	
<b>Closing Date</b>	October 29, 2012
Possession Date	October 29, 2012
Possession Time	noon

49 **4. PURCHASE PRICE AND TERMS.**

50 **4.1. Price and Terms.** The Purchase Price set forth below shall be payable in U.S. Dollars by Buyer as  
51 follows:

Item	Amount	Amount
Purchase Price	\$	
Buyer Premium – 2% of Purchase Price	\$	
Initial Earnest Money		\$ 10,000.00
Remainder of Earnest Money (for Earnest Money to total 10% of Purchase Price)		\$
Cash at Closing		\$
<b>TOTAL</b>	\$	\$

52 **4.2. Earnest Money.** The Earnest Money set forth in this section, shall be payable to and held by Dotter  
53 Abstract Company, 506 Main Street, Walsenburg, Colorado, 81089 (Closing Company), in its trust account, on  
54 behalf of both Seller and Buyer. The Earnest Money shall be tendered in two portions: (i) a cashier's check in the  
55 amount of \$10,000.00 on or before 9 a.m. on September 28, 2012 and (ii) an amount, when added to the \$10,000.00  
56 in 4.2(i), equals 10% of the total of the Purchase Price and the Buyer Premium. The parties authorize delivery of the  
57 Earnest Money deposit to the Closing Company, if any, at or before Closing.

58 **4.2.1. Return of Earnest Money.** If Buyer has a right to terminate and timely terminates, Buyer  
59 shall be entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set  
60 forth herein and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of  
61 a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual  
62 instructions, i.e., Earnest Money Release form, within three days of Seller's receipt of such form.

63 **4.3. Form of Funds; Time of Payment; Funds Available.**

64 **4.3.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds,  
65 Cash at Closing and closing costs, shall be in funds that comply with all applicable Colorado laws, including  
66 electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

67 **4.3.2. Available Funds.** All funds required to be paid at Closing or as otherwise agreed in writing  
68 between the parties shall be timely paid to allow disbursement by Closing Company at Closing **OR SUCH PARTY**  
69 **SHALL BE IN DEFAULT.** Buyer represents that Buyer, as of the date of this Contract, does have funds that are  
70 immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

71 **5. FINANCING CONDITIONS AND OBLIGATIONS. Buyer's obligations are not contingent upon**  
72 **financing.**

73 **6. APPRAISAL PROVISIONS. Buyer's obligations are not contingent upon an appraisal.**

74 **7. EVIDENCE OF TITLE AND ASSOCIATION DOCUMENTS.**

75 **7.1. Evidence of Title.** Seller has made available to Buyer a current commitment for title insurance and  
76 those exceptions listed in the commitment have been posted on www.ranchland.com/fortune. At Seller's expense,  
77 Seller shall cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after  
78 Closing. The title insurance commitment Shall Not commit to delete or insure over the standard exceptions which  
79 relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens,  
80 (5) gap period (effective date of commitment to date deed is recorded), and (6) unpaid taxes, assessments and  
81 unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain this additional  
82 coverage shall be paid by Buyer.  
83

84 **Note:** The title insurance company may not agree to delete or insure over any or all of the standard exceptions.  
85 Buyer acknowledges that Buyer has reviewed the Title Commitment, its provisions and the exceptions, prior to  
86 execution of this contract.  
87

88 **8. RECORD TITLE AND OFF-RECORD TITLE MATTERS.**

89 **8.1. Record Title Matters.** If there is an endorsement to the Title Commitment that adds a new exception  
90 to title, a copy of the new exception to title and the modified Title Commitment shall be delivered to Buyer. Buyer  
91 shall cause Seller to receive Buyer's Notice to Terminate or Notice of Title Objection on or before ten days after  
92 receipt by Buyer of the following documents: (1) the new exception; or (2) endorsement to the Title Commitment. If  
93 Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.1 (Record Title  
94 Matters), any title objection by Buyer and this Contract shall be governed by the provisions set forth in § 8.3 (Right  
95 to Object, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the  
96 applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Title Documents as  
97 satisfactory.

98 **8.2. Off-Record Title Matters.** Seller has posted on [www.ranchland.com/fortune](http://www.ranchland.com/fortune), for Buyer's review,  
99 true copies of all existing surveys in Seller's possession pertaining to the Property and shall disclose to Buyer all  
100 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other  
101 title matters (including, without limitation, rights of first refusal and options) not shown by public records, of which  
102 Seller has actual knowledge. Buyer shall have the right to inspect the Property to investigate if any third party has  
103 any right in the Property not shown by public records (such as an unrecorded easement, unrecorded lease, boundary  
104 line discrepancy or water rights). Buyer acknowledges that Buyer has reviewed all items posted on [insert website  
105 address] prior to execution of this Contract and, by execution of this Contract, Buyer accepts the condition of the  
106 Property.

107 **8.3. Title Resolution.** If Seller receives Buyer's Notice of Title Objection, as provided in § 8.1 (Record  
108 Title Matters) and Seller and Buyer are not able to resolve the Title Objection on or before ten days after receipt by  
109 Seller of Buyer's Notice of Title Objection, this Contract shall terminate unless Seller receives Buyer's written  
110 withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and  
111 waives the Right to Terminate for that reason), on or before ten days after receipt by Seller of Buyer's Notice of  
112 Title Objection.

113 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**  
114 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX**  
115 **LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH**  
116 **DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE**  
117 **SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF**  
118 **SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL**  
119 **LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE**  
120 **PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE**  
121 **CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER**  
122 **INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND**  
123 **RECORDER, OR THE COUNTY ASSESSOR.**

124 **8.5. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be  
125 reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership  
126 and use of the Property, including, without limitation, boundary lines and encroachments, area, zoning, unrecorded  
127 easements and claims of easements, leases and other unrecorded agreements, and various laws and governmental  
128 regulations concerning land use, development and environmental matters. **The surface estate may be owned**  
129 **separately from the underlying mineral estate, and transfer of the surface estate does not necessarily include**  
130 **transfer of the mineral rights or water rights. Third parties may hold interests in oil, gas, other minerals,**  
131 **geothermal energy or water on or under the Property, which interests may give them rights to enter and use**  
132 **the Property.** Such matters may be excluded from or not covered by the title insurance policy. Buyer is advised to  
133 timely consult legal counsel with respect to all such matters as there are strict time limits provided in this Contract.

134 **9. CURRENT SURVEY REVIEW. Not applicable.**

135  
136 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND**  
137 **SOURCE OF WATER.**

138 **10.1. Damage, Liens and Indemnity.** Buyer is fully and solely responsible for payment for all inspections,  
139 tests, surveys, engineering reports, or any other work performed at Buyer's request (Work) and shall pay for any  
140 damage that occurs to the Property and Inclusions as a result of such Work. Buyer shall not permit claims or liens of  
141 any kind against the Property for Work performed on the Property at Buyer's request. Buyer agrees to indemnify,  
142 protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and  
143 caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses  
144 incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this section, including  
145 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this section shall survive the  
146 termination of this Contract.

147 **10.2. Due Diligence Documents.** Seller has posted on [www.ranchland.com/fortune](http://www.ranchland.com/fortune), for Buyer's review, the  
148 following items (Due Diligence Documents):

149 **10.2.1.** All contracts relating to the operation, maintenance and management of the Property;

150 **10.2.2.** A rent roll accurate and correct to the date of this Contract;

151 **10.2.3.** All current leases, including any amendments or other occupancy agreements, pertaining to  
152 the Property (Leases);

153 **10.2.4.** Soils reports, Surveys and engineering reports or data pertaining to the Property;

154 **10.2.5.** Any and all existing documentation and reports regarding Phase I and II environmental  
155 reports, letters, test results, advisories, and similar documents respective to the existence or nonexistence of  
156 asbestos, PCB transformers, or other toxic hazardous or contaminated substances, and/or underground storage tanks  
157 and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller shall warrant that no such reports  
158 are in Seller's possession or known to Seller; and

159 **10.2.6.** All permits, licenses and other building or use authorizations issued by any governmental  
160 authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use  
161 authorizations, if any.

162 **10.3. Due Diligence Documents Conditions.** Buyer represents that Buyer has had access to the Due  
163 Diligence materials made available by Seller, Seller's broker and Seller's auctioneer. Buyer represents that Buyer  
164 has performed all due diligence concerning the Property that Buyer desires and, by execution of this Contract, Buyer  
165 accepts the condition of the Property.

166 **10.4. Due Diligence – Environmental, ADA.** Buyer shall have the right to obtain environmental  
167 inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable.

168 **10.5. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases  
169 to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements  
170 except as disclosed in the Lease or other writing received by Buyer. Seller shall not amend, alter, modify, extend or  
171 cancel any of the Leases nor shall Seller enter into any new leases affecting the Property without the prior written  
172 consent of Buyer, which consent shall not be unreasonably withheld or delayed. All leases which relate to the  
173 Property are listed on **Exhibit F** attached hereto and incorporated herein.

174 **11. TENANT ESTOPPEL STATEMENTS – Not Applicable.**

175 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

176 **12.1. Closing Documents and Closing Information.** Seller and Buyer shall cooperate with the Closing  
177 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller  
178 and their designees. Buyer and Seller shall sign and complete all customary or reasonably required documents at or  
179 before Closing.

180 **12.2. Closing Instructions.** Buyer and Seller agree to execute the Colorado Real Estate Commission's  
181 Closing Instructions. Such Closing Instructions Are executed with this Contract. Upon mutual execution, Seller shall  
182 deliver such Closing Instructions to the Closing Company.

183 **12.3. Closing.** Delivery of deed from Seller to Buyer shall be at closing (Closing). Closing shall be on  
184 October 29, 2012 at 10:00 am at the office of the Closing Company.

185 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality, and extent of  
186 service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).  
187

188 **13. TRANSFER OF TITLE.** Subject to tender of payment at Closing as required herein and compliance by  
189 Buyer with the other terms and provisions hereof, Seller shall execute and deliver a good and sufficient special deed  
190 to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of  
191 Closing. Except as provided herein, title shall be conveyed free and clear of all liens, including any governmental

192 liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not. Title  
193 shall be conveyed subject to:

194 **13.1.** Those specific Exceptions described by reference to recorded documents as reflected in the Title  
195 Documents accepted by Buyer in accordance with **Record Title Matters** (§ 8.1),

196 **13.2.** Distribution utility easements (including cable TV),

197 **13.3.** Those specifically described rights of third parties not shown by the public records of which Buyer has  
198 actual knowledge and which were accepted by Buyer in accordance with **Off-Record Title Matters** (§ 8.2),

199 **13.4.** Inclusion of the Property within any special taxing district, and

200 **13.5.** Other – the leases listed on Exhibit F attached hereto and incorporated herein.

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

203 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

204 **15.1. Closing Costs.** Buyer and Seller shall pay, in Good Funds, their respective closing costs and all other  
205 items required to be paid at Closing, except as otherwise provided herein.

206 **15.2. Closing Services Fee.** The fee for real estate closing services shall be paid at Closing by One-Half by  
207 Buyer and One-Half by Seller.

208 **15.3. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction shall be paid  
209 when due by Buyer.

210 **16. PRORATIONS.** The following shall be prorated to **Closing Date** (§ 3), except as otherwise provided:

211 **16.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real  
212 estate taxes for the year of Closing, based on Most Recent Mill Levy and Most Recent Assessed Valuation.

213 **16.2. Rents.** Rents based on Rents Actually Received. At Closing, Seller shall transfer or credit to Buyer the  
214 security deposits for all Leases assigned, or any remainder after lawful deductions, and notify all tenants in writing  
215 of such transfer and of the transferee's name and address. Seller shall assign to Buyer all Leases in effect at Closing  
216 and Buyer shall assume Seller's obligations under such Leases.

217 **16.3. Other Prorations.** Water and sewer charges, and lease rents, if any.

218 **16.4. Final Settlement.** Unless otherwise agreed in writing, these prorations shall be final.  
219

220 **17. POSSESSION.** Possession of the Property shall be delivered to Buyer on **Possession Date** at **Possession**  
221 **Time**, subject to the following Leases or tenancies: None, except those leases listed on Exhibit F attached hereto and  
222 incorporated herein.

223 If Seller, after Closing, fails to deliver possession as specified, Seller shall be subject to eviction and shall be  
224 additionally liable to Buyer for payment of \$1000.00\_ per day (or any part of a day notwithstanding § 18.1) from  
225 **Possession Date** and **Possession Time** until possession is delivered.

226 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**

227 **18.1. Day.** As used in this Contract, the term "day" shall mean the entire day ending at 11:59 p.m., United  
228 States Mountain Time (Standard or Daylight Savings as applicable).

229 **18.2. Computation of Period of Days, Deadline.** In computing a period of days, when the ending date is  
230 not specified, the first day is excluded and the last day is included. If any deadline falls on a Saturday, Sunday or  
231 federal or Colorado state holiday (Holiday), such deadline shall be extended to the next day that is not a Saturday,  
232 Sunday or Holiday. Should neither box be checked, the deadline shall not be extended.

233 **19. CAUSES OF LOSS, INSURANCE; CONDITION OF, DAMAGE TO PROPERTY AND INCLUSIONS**  
234 **AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both shall be  
235 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

236 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils  
237 or causes of loss prior to Closing in an amount of not more than ten percent of the total Purchase Price (Property  
238 Damage), Seller shall be obligated to repair the same before **Closing Date**. In the event such damage is not repaired  
239 within said time or if the damage exceeds such sum, this Contract may be terminated at the option of Buyer. Buyer  
240 shall have the right to terminate on or before the **Closing Date**, based on any Property Damage not repaired before  
241 **Closing Date**. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer shall be entitled  
242 to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any)

243 resulting from such damage to the Property and Inclusions, plus the amount of any deductible provided for in such  
244 insurance policy. Such credit shall not exceed the Purchase Price. In the event Seller has not received such insurance  
245 proceeds prior to Closing, the parties may agree to extend the **Closing Date** or, at the option of Buyer, Seller shall  
246 assign such proceeds at Closing, plus credit Buyer the amount of any deductible provided for in such insurance  
247 policy, but not to exceed the total Purchase Price.

248 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and  
249 communication services), systems and components of the Property, e.g., heating or plumbing, fail or be damaged  
250 between the date of this Contract and Closing or possession, whichever shall be earlier, then Seller shall be liable for  
251 the repair or replacement of such Inclusion, service, system, component or fixture of the Property with a unit of  
252 similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of  
253 such Inclusion, service, system, component or fixture is not the responsibility of the Association, if any, less any  
254 insurance proceeds received by Buyer covering such repair or replacement. Seller and Buyer are aware of the  
255 existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement of  
256 such Inclusions.

257 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending  
258 condemnation action may result in a taking of all or part of the Property or Inclusions, Seller shall promptly notify  
259 Buyer, in writing, of such condemnation action. Buyer shall have the right to terminate, on or before **Closing Date**,  
260 based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this  
261 Contract despite such diminution of value to the Property and Inclusions, Buyer shall be entitled to a credit at  
262 Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or  
263 Inclusions but such credit shall not include relocation benefits or expenses, or exceed the Purchase Price.

264 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, shall have the right to  
265 walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions  
266 complies with this Contract.

267 **19.5. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other  
268 casualty shall be borne by the party entitled to the growing crops as provided in § 2.5.5 and such party shall be  
269 entitled to such insurance proceeds or benefits for the growing crops.

270 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this document, Buyer and Seller  
271 acknowledge that the respective broker has advised that this document has important legal consequences and has  
272 recommended the examination of title and consultation with legal and tax or other counsel before signing this  
273 Contract.

274 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence hereof. If any note or check  
275 received as Earnest Money hereunder or any other payment due hereunder is not paid, honored or tendered when  
276 due, or if any obligation hereunder is not performed or waived as herein provided, there shall be the following  
277 remedies:

278 **21.1. If Buyer is in Default:** Seller may elect to treat this Contract as canceled, in which case all Earnest  
279 Money (whether or not paid by Buyer) shall be paid to Seller and retained by Seller; and Seller may recover such  
280 damages as may be proper; or Seller may elect to treat this Contract as being in full force and effect and Seller shall  
281 have the right to specific performance or damages, or both.

282 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all Earnest  
283 Money received hereunder shall be returned and Buyer may recover such damages as may be proper, or Buyer may  
284 elect to treat this Contract as being in full force and effect and Buyer shall have the right to specific performance or  
285 damages, or both.

286 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of  
287 any arbitration or litigation relating to this Contract, prior to or after **Closing Date** (§ 3), the arbitrator or court shall  
288 award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

289 **23. MEDIATION.** If a dispute arises relating to this Contract, prior to or after Closing, and is not resolved, the  
290 parties shall first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties  
291 meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot  
292 impose binding decisions. The parties to the dispute must agree, in writing, before any settlement is binding. The  
293 parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The  
294 mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within thirty days

295 of the date written notice requesting mediation is delivered by one party to the other at the party's last known  
296 address. This section shall not alter any date in this Contract, unless otherwise agreed.

297 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Closing Company shall release the  
298 Earnest Money as directed by written mutual instructions, signed by both Buyer and Seller. In the event of any  
299 controversy regarding the Earnest Money (notwithstanding any termination of this Contract), Closing Company  
300 shall not be required to take any action. Closing Company, at its option and sole subjective discretion, may (1) await  
301 any proceeding, (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction and shall  
302 recover court costs and reasonable attorney and legal fees, or (3) provide notice to Buyer and Seller that unless  
303 Closing Company receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing  
304 the case number of the lawsuit (Lawsuit) within one hundred twenty days of Closing Company's notice to the  
305 parties, Closing Company shall be authorized to return the Earnest Money to Buyer. In the event Closing Company  
306 does receive a copy of the Lawsuit, and has not interpleaded the monies at the time of any Order, Closing Company  
307 shall disburse the Earnest Money pursuant to the Order of the Court.

308 **25. TERMINATION.**

309 **25.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract, the termination  
310 shall be effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such  
311 written notice was received on or before the applicable deadline specified in this Contract. If the Notice to  
312 Terminate is not received on or before the specified deadline, the party with the Right to Terminate shall have  
313 accepted the specified matter, document or condition as satisfactory and waived the Right to Terminate under such  
314 provision.

315 **25.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received hereunder  
316 shall be returned and the parties shall be relieved of all obligations hereunder, subject to §§ 22, 23 and 24.

317 **26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL.** This Contract, its exhibits and specified  
318 addenda, constitute the entire agreement between the parties relating to the subject hereof, and any prior agreements  
319 pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent  
320 modification of any of the terms of this Contract shall be valid, binding upon the parties, or enforceable unless made  
321 in writing and signed by the parties. Any obligation in this Contract that, by its terms, is intended to be performed  
322 after termination or Closing shall survive the same.

323 **27. NOTICE, DELIVERY, AND CHOICE OF LAW.**

324 **27.1. Physical Delivery.** All notices must be in writing, except as provided in § 27.2. Any document,  
325 including a signed document or notice, from or on behalf of Seller, and delivered to Buyer shall be effective when  
326 physically received by Buyer, any signatory on behalf of Buyer, any named individual of Buyer, any representative  
327 of Buyer, or Brokerage Firm of Broker working with Buyer (except for delivery, after Closing, of the notice  
328 requesting mediation described in § 23) and except as provided in § 27.2. Any document, including a signed  
329 document or notice, from or on behalf of Buyer, and delivered to Seller shall be effective when physically received  
330 by Seller, any signatory on behalf of Seller, any named individual of Seller, any representative of Seller, or  
331 Brokerage Firm of Broker working with Seller (except for delivery, after Closing, of the notice requesting mediation  
332 described in § 23) and except as provided in § 27.2.

333 **27.2. Electronic Delivery.** As an alternative to physical delivery, any document, including any signed  
334 document or written notice, may be delivered in electronic form only by the following indicated methods:   
335 **Facsimile**  **Email**  **Internet**  **No Electronic Delivery.** If the box "No Electronic Delivery" is checked, this  
336 § 27.2 shall not be applicable and § 27.1 shall govern notice and delivery. Documents with original signatures shall  
337 be provided upon request of any party.

338 **27.3. Choice of Law.** This Contract and all disputes arising hereunder shall be governed by and construed  
339 in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a  
340 contract in Colorado for property located in Colorado.

341 **28. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal shall expire unless accepted in writing,  
342 by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of such  
343 acceptance pursuant to § 27 on or before **Acceptance Deadline Date** (§ 3) and **Acceptance Deadline Time** (§ 3). If  
344 accepted, this document shall become a contract between Seller and Buyer. A copy of this document may be



## ADDENDUM

This Addendum (“this Addendum”) shall form a part of that certain Contract to Buy and Sell Real Estate (Vacant Land-Farm-Ranch) dated September \_\_, 2012 between Fortune I, LLC, a Washington limited liability company (“Seller”) and \_\_\_\_\_ (“Buyer”). The printed form contract together with the Exhibits thereto and this Addendum are collectively referred to as the “Contract.” In the event this Addendum conflicts with, varies from, or modifies the terms and conditions of the printed form contract, then the terms of this Addendum shall control. In all other respects, the terms of the printed form contract are republished and reaffirmed hereby.

1. **“As Is” Condition; Waiver.** Buyer is purchasing the Property in “AS IS” condition. Buyer waives, and Seller disclaims, all express and implied warranties, including, without limitation, those with respect to suitability, habitability and use for a particular purpose. Buyer represents and warrants that Buyer has performed such diligence and examined all documents provided by Seller, Seller’s Broker and Seller’s auctioneer and is satisfied with the results of such due diligence and examination prior to signing this Contract.

2. **No Commission; Indemnity.** Each of Buyer and Seller indemnifies the other against all claims for such fees or commissions by anyone having or claiming such an agreement through the indemnifying party.

3. **Source of Potable Water.** Seller discloses the following information for the source of potable water for the Property is as set forth on Exhibit E to the Contract.

4. **Waiver.** EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

BUYER ACKNOWLEDGES AND AGREES THAT UPON CLOSING SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY “AS IS, WHERE IS, WITH ALL FAULTS”. BUYER ALSO ACKNOWLEDGES THAT THE PURCHASE PRICE REFLECTS AND TAKES INTO ACCOUNT THAT THE PROPERTY IS BEING SOLD “AS-IS.” EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS CONTRACT, BUYER HAS NOT RELIED AND WILL NOT RELY ON, AND SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTIES, STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY OR RELATING THERETO (INCLUDING SPECIFICALLY, WITHOUT LIMITATION, ANY OFFERING MEMORANDUM DISTRIBUTED WITH RESPECT TO THE PROPERTY) MADE OR FURNISHED BY SELLER, THE MANAGERS OF THE PROPERTY, OR ANY REAL ESTATE BROKER OR AGENT REPRESENTING OR PURPORTING TO REPRESENT

SELLER, TO WHOMEVER MADE OR GIVEN, DIRECTLY OR INDIRECTLY, ORALLY OR IN WRITING.

BUYER REPRESENTS TO SELLER THAT BUYER HAS CONDUCTED, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS BUYER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO, OTHER THAN SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AS ARE EXPRESSLY SET FORTH IN THIS CONTRACT. UPON CLOSING, BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INVESTIGATIONS, AND BUYER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND SELLER'S MEMBERS AND THEIR AFFILIATED ENTITIES AND EACH OF THEIR RESPECTIVE MEMBERS, PARTNERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS (COLLECTIVELY, "SELLER AFFILIATES")) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER OR ANY SELLER AFFILIATES AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY, OTHER THAN PURSUANT TO SUCH REPRESENTATIONS, WARRANTIES AND COVENANTS OF SELLER AS ARE EXPRESSLY SET FORTH IN THIS CONTRACT.

THIS CONTRACT, INCLUDING SPECIFICALLY BUT WITHOUT LIMITATION THE PROVISIONS OF THIS SECTION HAVE BEEN EXTENSIVELY NEGOTIATED BY SELLER AND BUYER, AND REFLECTS THE MUTUAL CONTRACT OF SELLER AND BUYER, BUYER REPRESENTS AND WARRANTS THAT BUYER HAS BEEN REPRESENTED BY LEGAL COUNSEL OF ITS CHOOSING HAVING EXPERIENCE AND KNOWLEDGE IN HANDLING COMMERCIAL REAL ESTATE TRANSACTIONS OF THE NATURE AND CHARACTER AS CONTEMPLATED HEREIN, AND BUYER IS RELYING SOLELY ON THE ADVICE OF ITS LEGAL COUNSEL IN ENTERING INTO THIS CONTRACT AND COMPLETING THE TRANSACTION CONTEMPLATED HEREIN. THE PARTIES ACKNOWLEDGE THAT THE PARTIES AND THEIR RESPECTIVE LEGAL COUNSEL HAVE REVIEWED AND REVISED THIS CONTRACT AND THAT THE NORMAL RULE OF CONSTRUCTION TO THE EFFECT THAT ANY AMBIGUITIES ARE TO BE RESOLVED AGAINST THE DRAFTING PARTY SHALL NOT BE EMPLOYED IN

THE INTERPRETATION OF THIS CONTRACT OR ANY AMENDMENTS OR EXHIBITS HERETO. BUYER FURTHER ACKNOWLEDGES THAT BUYER IS AWARE THAT THE PROVISIONS OF THIS CONTRACT, INCLUDING SPECIFICALLY BUT WITHOUT LIMITATION THE PROVISIONS OF THIS SECTION 6.03, LIMIT, RESTRICT AND MAY FORECLOSE BUYER'S ABILITY TO PURSUE ANY REMEDY OR CAUSE OF ACTION AGAINST SELLER IN CONNECTION WITH THIS TRANSACTION OR ANY MATTER AFFECTING THE PROPERTY.

5. **Methamphetamine Disclosure.** If the Property is residential, and Seller knows that methamphetamine was ever manufactured, processed, cooked, disposed of, used or stored at the Property, Seller is required to disclose such fact. No disclosure is required if the Property was remediated in accordance with state standards and other requirements are fulfilled pursuant to § 25-18.5-102, C.R.S. Buyer further acknowledges that Buyer has the right to engage a certified industrial hygienist or industrial hygienist to test whether the Property has ever been used as a methamphetamine laboratory. If Buyer's test results indicate that the Property has been contaminated with methamphetamine, but has not been remediated to meet the standards established by rules of the State Board of Health promulgated pursuant to § 25-18.5-102, C.R.S., Buyer shall promptly give written notice to Seller of the results of any such testing, and Buyer may terminate this Agreement, notwithstanding any other provision of this Agreement, by delivering written notice of such termination to Seller, in which event the Deposit shall be returned to Buyer and neither party shall have any further obligations or liabilities hereunder except for obligations or liabilities that expressly survive the termination of this Agreement.

6. **Carbon Monoxide Alarms.** **Note:** If the improvements on the Property have a fuel-fired heater or appliance, a fireplace, or an attached garage and include one or more rooms lawfully used for sleeping purposes (Bedroom), the parties acknowledge that Colorado law requires that Seller assure the Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each Bedroom or in a location as required by the applicable building code.

7. **Lead-Based Paint.** Unless exempt, if the improvements on the Property include one or more residential dwellings for which a building permit was issued prior to January 1, 1978, this Contract shall be void unless (1) a completed Lead-Based Paint Disclosure (Sales) form is signed by Seller, the required real estate licensees and Buyer, and (2) Seller receives the completed and fully executed form prior to the time when the Contract is signed by all parties. Buyer acknowledges timely receipt of a completed Lead-Based Paint Disclosure (Sales) form signed by Seller and the real estate licensees.

8. **No Financial Representation.** Seller has provided to Buyer certain historical **financial** information regarding the Property relating to certain periods of time in which Seller owned the Property. Seller and Buyer hereby acknowledge that such information has been provided to Buyer solely as illustrative material. Seller makes no representation or warranty that such material is complete or accurate or that Buyer will achieve similar financial or other results with respect to the operations of the Property, it being acknowledged by Buyer that Seller's operation of the Property and allocations of revenues or expenses may be vastly different than Buyer may be able to attain. Buyer acknowledges that it is a sophisticated and experienced purchaser of real estate and further that Buyer has relied upon its own investigation and inquiry

with respect to the operation of the Property and releases Seller from any liability with respect to such historical financial information.

9. **Closing, Deliveries and Obligations.** At the Closing, Seller shall deliver the following to the Escrow Agent (or made available at the Property as noted below):

(a) **Bill of Sale.** A special warranty bill of sale for Personal Property executed by Seller.

(b) **General Assignment.** A general assignment executed by Seller.

(c) **Notices of Sales.** A letter executed by Seller, advising any tenants under any Leases of the sale of the Property to Buyer and directing that all rents and other payments thereafter becoming due under the Leases be sent to Buyer or as Buyer may direct.

(d) **Non-Foreign Affidavit; Nonresident Form.** A certification with respect to compliance by Seller with the Foreign Investment and Real Property Tax Act, IRC Section 1445(b)(2), as amended, and a certificate in compliance with the reporting and withholding requirements for the sale of Colorado properties by non-residents in accordance with C.R.S. §39-22-604.5 (Colorado Department of Revenue Form DR-1083).

(e) **Management Agreement Termination.** A termination of the existing management agreement, executed by the property manager.

(f) **Transfer Tax Declaration.** Any transfer tax declaration, if any, required to be filed in connection with the recording of the Deed, including a Real Property Transfer Declaration as required by C.R.S. §39-14-102.

(g) **Settlement Statement.** A settlement statement for the transaction setting forth adjustments, prorations and expenses provided for herein (the "**Settlement Statement**"), executed by Seller.

(h) **Other Documents.** Any other documents reasonably required by the Escrow Agent to be delivered by Seller in order to consummate the transaction expressly contemplated by this Agreement.

10. **Seller's Expenses.** Seller shall pay (i) its own counsel fees; (ii) the cost of the base premium for the Title Policy, but not including costs of extended coverage and endorsements requested by Buyer; (iii) one-half of any escrow fees; and (iv) those fees, costs and expenses customarily charged at closing to a seller in accordance with the custom of the State of Colorado.

11. **Buyer's Closing Obligations.** At the Closing, Buyer shall:

(a) **Payment of Purchase Price.** Deliver to the Escrow Agent the Purchase Price, as adjusted pursuant to the express provisions this Agreement (including, without limitation, the apportionments under Sections 2.03, 2.05 and 11).

(b) Recording. Cause the Deed to be recorded.

(c) Settlement Statement. Deliver to the Escrow Agent the Settlement Statement, executed by Buyer.

(d) Other Documents. Any other documents reasonably required by Escrow Agent to be delivered by Buyer in order to consummate the transaction expressly contemplated by this Agreement.

(e) Buyer's Expenses. Buyer shall pay (i) its own counsel fees, (ii) the cost of any additional premiums charged by the Title Insurer for the Title Policy, including, without limitation, the cost of any extended coverage and the cost of any endorsements to the Title Policy requested by Buyer, (iii) the cost of the New Survey and/or any updates to the Prior Survey, (iv) all costs of any mortgage financing obtained by Buyer including, without limitation, all cost for the lender's title insurance policy, (v) all recording costs; (vi) one hundred percent (100%) of all recordation taxes, transfer taxes, or other similar taxes in connection the Assumption, the Buyer's financing or the transaction contemplated by this Agreement, if any, (vii) one-half of any escrow fees, and (viii) those fees, costs and expenses customarily charged at closing to a buyer in accordance with the custom of the State of Colorado.

12. **Brokerage Fees**. Seller and Buyer mutually represent and warrant that [\_\_\_\_\_] ("Broker") is the only broker with whom they have dealt in connection with this purchase and sale and that neither Seller nor Buyer knows of other any broker who has claimed or may have the right to claim a commission in connection with this purchase and sale. The commission of the Broker shall be paid by Seller pursuant to a separate agreement, but Seller shall be obligated to pay such commission only if, as and when the Deed is recorded and not otherwise. In any event, Buyer shall have no obligation to pay a brokerage commission to Broker. Seller and Buyer shall indemnify and defend each other against any costs, claims or expenses, including attorneys' fees, arising out of the breach on their respective parts of any representations, warranties or agreements contained in this Section. Buyer acknowledges and agrees that Broker is not authorized by Seller to make, and Broker has not at any time made, any representation or warranty of any kind or character, express or implied, with respect to Seller or the Property. The representations and obligations under this Section shall survive the Closing or, if the Closing does not occur, the termination of this Agreement.

13. **Seller's Representations and Warranties**. Seller represents, warrants and agrees that the following are true and correct as of the date of this Contract and will be true and correct on the date of Closing:

(a) Authority. This Contract has been duly executed by Seller and is enforceable against Seller in accordance with its terms.

(b) No Change. Seller has not received written notice of, and has no other knowledge (without investigation) of, any pending or threatened judicial or administrative action, of any action pending or threatened by adjacent landowners or other persons, or of any pending or contemplated condemnation or other governmental action, any of which could result in any material change in the condition of all or any party of the Property.

(c) Uncompleted Work/Agreements. There are no outstanding agreements made by or on behalf of Seller for any improvements to the Property or other work contracted for by Seller with respect to the Property for which payment has not been fully made, and Seller will cause to be discharged, and indemnify Buyer with respect to, all mechanics' and materialmen's liens or other claims arising from any labor, equipment or materials furnished to Seller before Closing with respect to any agreement entered into by Seller before Closing.

(d) Taxes. Seller has paid or will pay in full prior to Closing all taxes and special assessments on the Property that have become due and payable through December 31, 2011, and the Property is not subject to any lien for payment of taxes, other than general property taxes constituting a lien not yet payable. Real Estate taxes for 2012 will be prorated to the date of Closing.

(e) Hazardous Substances. Seller has not received any written notice of, and has no other knowledge (without investigation) of, the existence of presence in, on or under the Property of any Hazardous Materials (defined below); and there are no instances of past noncompliance of the Property with Environmental Laws (defined below) by Seller, nor are there or have there been any unlawful releases by Seller in, on or under the Property of any Hazardous Materials.

(f) "Hazardous Materials" shall mean (i) any waste, material or substance (whether in the form of a liquid, a solid, or a gas or whether or not airborne) which is deemed to be a pollutant or a contaminant, or to be hazardous, toxic, ignitable, reactive, infectious, explosive, corrosive, dangerous, harmful or injurious to public health or to the environment, and which is not or becomes regulated in the future by or under the authority of any applicable local, state or federal laws, judgments, ordinances, orders, rules, regulations, codes or other governmental restrictions or requirements, any amendments or successor(s) thereto, replacements thereof or publications promulgated pursuant thereto; (ii) petroleum; (iii) asbestos and asbestos containing materials; (iv) any polychlorinated biphenyl; (v) any radioactive material; (vi) oil and hazardous substances, as defined in the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; (vii) economic poison, as defined in the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Section 135 *et seq.*; (viii) chemical substance, as defined in the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq.*; (ix) hazardous substance and pollutant or contaminant, as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 *et seq.*; (x) hazardous waste, as defined in the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* The term "Hazardous Materials" also includes asbestos containing materials, such other substances, materials or waste as may from time to time prior to Closing be further defined, added to or regulated under the acts referred to above, including amendments made to those acts, rules and regulations made under the acts referred to above, including amendments made to those acts, rules and regulations made under them, environmental and workplace safety acts passed in substitution for or in addition to such acts, and any statutes, rules or regulations under federal law, state law, common law or any applicable county or local law intended to protect the public health and welfare as related to land, water, ground water, air and other aspects of the natural environment (all of such acts, statutes, rules and regulations will be referred to as "Environmental Laws"). Environmental Laws will include, but are not limited to, those laws relating to the use, generation, storage or disposal of Hazardous Materials.

14. **Notice Provision.** All notices required or permitted to be given under this Contract shall be in writing and shall be effective immediately upon receipt by a party, upon physical delivery to the address stated below during normal business hours, or three days following deposit in the United States Mail, Certified, Return Receipt Requested, and addressed to the addresses stated below. All notices sent by Certified Mail shall be simultaneously sent by facsimile transmission to the telephone numbers stated below.

IF TO SELLER:

Fortune I, LLC

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

Husch Blackwell LLP  
1050 17th Street, Suite 1500  
Denver, CO 80265  
Attn: Michael Smith, Esq.  
Fax: (303) 685-4869

IF TO BUYER:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. **Miscellaneous.**

(a) Subject to the provisions of this Contract, Seller and Buyer reserve the right to waive any of the conditions precedent to their respective obligations as set forth herein, which conditions are inserted solely for the benefit of Seller or Buyer, as the case may be, and may be waived by Seller or Buyer at its sole discretion. If Buyer elects to waive conditions precedent to its obligations under this Contract by written notice to Seller, the Closing shall take place on the third business day following the date of Buyer's waiver notice.

(b) This Contract constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings of the parties.

(c) Except as otherwise provided herein, this Contract may not be amended or modified except by a written instrument executed by both Seller and Buyer.

(d) If any term or provision of this Contract, or an application thereof, shall be determined to be invalid or unenforceable, the remainder of this Contract, and the application of

any remaining term or provision, shall not be affected thereby and shall remain in full force and effect.

(e) Any provision of this Contract which by its terms requires performance or observance subsequent to the Closing shall be deemed to survive the Closing and continue to be binding upon Seller and Buyer.

(f) Paragraph headings are included herein for convenience of reference only and shall not affect the construction or interpretation of any of its provisions.

(g) Notwithstanding anything to the contrary, in the event of any controversy, claim or dispute between Seller and Buyer arising out of or relating to this Contract, or breach thereof, the court shall enter an award in favor of the prevailing party and against the non-prevailing party for the prevailing party's reasonable attorneys' fees, litigation expenses and court costs, including in-house attorney fees, costs and expenses.

(h) In the event any date called for herein falls on a Saturday, Sunday or federal or state holiday, said date shall be extended to the next business day following such Saturday, Sunday or federal or state holiday. References to "days" herein shall refer to calendar, and not business, days unless the context indicates otherwise.

(i) The enforcement and interpretation of this Contract shall be governed and controlled by the laws of the State of Colorado, without giving effect to conflicts of law principles.

Buyer:

\_\_\_\_\_

Seller:

Fortune I, LLC, a Washington limited liability company

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

Scott Thomson, Manager