

REAL ESTATE OPTION AND PURCHASE CONTRACT

THE GRAND LODGE

This is a legally binding contract. If you desire legal or tax advice, consult your attorney or tax advisor.

OPTION PAYMENT

Buyer hereby offers to purchase an option for the Condominium Unit (as that term is described and defined below) and delivers to the Brokerage, as a fully earned option payment for an option to purchase said Condominium Unit, an amount equal to ten percent (10%) of the Purchase Price (the "Option Payment"), which, upon Acceptance of this offer by all parties (as defined in Section 23), shall be deposited into an interest bearing trust account with Coalition Title Agency in Park City, Utah (the "Title Company") in accordance with escrow instructions attached hereto as Exhibit "A". The Option Payment shall be deemed fully earned upon receipt by the Title Company, subject only to the provisions of Section 2.4 and Section 8 below or Seller's inability to close the transaction in accordance with the terms hereof, as the same may be hereafter modified by the parties in writing. The Title Company is hereby authorized to release the Option Payment to Seller immediately upon the recordation of the survey map in accordance with Section 8.3 below.

Received by: _____ on _____ (Date)

Brokerage: _____ Phone Number _____

OFFER TO PURCHASE

1. PROPERTY.

1.1 Location. The Option Payment is given to secure and apply to the purchase of Unit # _____ (the "Condominium Unit") of *The Grand Lodge, Park City, Utah*, a proposed condominium development (the "Development") on real property near the Northside Express Lift of the Deer Valley Ski Resort in Park City, Summit County, Utah, which development parcel is more particularly described as: Lot D of the Northside Village Subdivision II, a multifamily subdivision as shown on the Official Plat recorded on June 28, 2002, as Entry No. 623453 in the Official Records of Summit County, Utah.

1.2 Condominium Unit Design. The Condominium Unit and related improvements shall be constructed in accordance with the architectural and engineering renderings, plans and specifications (the "Plans and Specifications"), which have been reviewed by the Buyer and are approved by Buyer as provided in Section 8 below.

1.3 Utility Services. Seller represents that the Condominium Unit will be connected to and serviced by public water, public sewer, natural gas, telephone and electricity. The Condominium Unit will be accessed by private road. Maintenance costs for the road shall be shared with other condominium owners within the homeowners association to be formed in conjunction with the development of The Grand Lodge project.

1.4 Permit Fees. Seller agrees to pay for building permit fees, impact fees and all utility connection fees for the Condominium Unit.

2. PURCHASE PRICE. The Purchase Price for the Condominium Unit is \$ _____.

2.1 Method of Payment. The Purchase Price will be paid as follows:

\$ _____ (a) **Option Payment.** This amount shall be deemed earned by Seller and shall become totally non-refundable to Buyer upon acceptance of this offer by all parties and receipt of the Option Payment by the Title Company, subject only to the provisions of Section 2.4 and Section 8 below or Seller's inability to close the transaction in accordance with the terms hereof. The Title Company is hereby authorized to release the Option Payment to Seller immediately upon the recording of the survey map in accordance with Section 8.3 below. At closing, the Purchase Price shall be reduced by the amount of the Option Payment.

\$ _____ (b) **Earnest Money Deposit.** No later than the Evaluations & Inspections Deadline referenced in Section 24(d) below, Buyer shall deposit with the Title Company an additional amount equal to ten percent (10%) of the Purchase Price (the "Earnest Money Deposit"), which amount shall be non-refundable to Buyer unless Seller is unable to close the transaction in accordance with the terms hereof, as the same may hereafter be modified by the parties hereto in writing. The Title Company is hereby authorized to release the Earnest Money Deposit to Seller immediately upon the recording of the survey map in accordance with Section 8.3 below. At closing, the Purchase Price shall be reduced by the amount of the Earnest Money Deposit.

- \$ _____ (c) **Loan.** Buyer agrees to apply for a Loan (the "Loan") as provided in Section 2.3 below. Buyer agrees to accept the Loan at the interest rate offered by Buyer's lender as of the date of Settlement. Buyer acknowledges that the loan interest rate at Settlement may exceed the rate quoted by the lender as of Loan Application.
- \$ _____ (d) **Balance of Purchase Price in Cash at Settlement**
- \$ _____ (e) **PURCHASE PRICE. Total of lines (a) through (e)**

2.2 Financing Condition. (check applicable box)

- (a) Buyer's obligation to purchase the Condominium Unit **IS CONDITIONED** upon Buyer qualifying for the Loan. This condition is referred to as the "Financing Condition" and the Buyer is under the obligations hereinafter provided in Section 2.3 to proceed immediately and with good faith to obtain the requisite Loan.
- (b) Buyer's obligation to purchase the Condominium Unit **IS NOT CONDITIONED** upon Buyer qualifying for the Loan. There is no Financing Condition and Section 2.3 does not apply.

2.3 Application for Loan.

(a) **Loan Application.** No later than the Application Deadline referenced in Section 24(a), Buyer shall apply for the Loan at: _____ . Loan Application occurs **only** when Buyer has: (i) completed, signed, and delivered to the lender (the Lender) the initial loan application and documentation required by the Lender; and (ii) paid all loan application fees as required by the Lender. Buyer agrees to diligently work to obtain the Loan. Buyer will promptly provide the Lender with any additional documentation as required by the Lender.

(b) **Pre-Qualification Letter.** No later than the Pre-Qualification Deadline referenced in Section 24(c) (which shall not be later than ten (10) days prior to the Evaluations & Inspections Deadline specified in Section 24(d)), Buyer agrees to provide to Seller a "Pre-Qualification Letter" from the Lender for the Loan. Buyer agrees to diligently work to obtain the Pre-Qualification Letter. The Pre-Qualification Letter shall state that: (i) the Buyer's credit report and income to debt ratios are satisfactory to the Lender; and (ii) subject only to verification of the information contained in the Loan Application, the Lender will grant the Loan.

(c) **Right to Cancel.** If the Lender fails to provide Buyer with a Pre-Qualification Letter, or if the Pre-Qualification Letter contains conditions other than those specified in Section 2.3(b), Buyer or Seller may cancel this Contract by providing written notice to the other party no later than three calendar days after the Pre-Qualification Deadline; whereupon the Option Payment, together with any accrued interest, shall be released to Buyer. If this Contract is not canceled as provided in this Section 2.3(c), Buyer and Seller shall be deemed to have waived any objections regarding the lack of, or any conditions contained in the Pre-Qualification Letter.

2.4 Non-Refundable Option Payment. If (i) the Pre-Qualification Letter is obtained by the Buyer and provided to the Seller as provided in Section 2.3(b) without any conditions other than those specified in Section 2.3(b) or otherwise accepted in writing by the Seller; or (ii) this Contract is not canceled as provided in Sections 2.3(c), then Buyer shall be deemed qualified for the Loan, and Buyer's offer to purchase the Condominium Unit shall no longer be subject to the Financing Condition referenced in Section 2.2(a) above; whereupon the Option Payment shall be and become totally non-refundable to Buyer except as may be provided in Section 8 inclusive below.

3. SETTLEMENT AND CLOSING.

3.1 Walk-Through Inspection/Completion Escrow. Buyer may conduct a "walk-through" inspection of the Condominium Unit no later than fourteen (14) days prior to Settlement. The walk-through inspection shall be for the purpose of identifying any corrective or repair work ("Repair Work") that needs to be completed to achieve substantial completion of the Condominium Unit pursuant to the Plans and Specifications (as may be modified by written agreements or instructions signed by both the Buyer and the Seller). If, as of Settlement, Repair Work remains to be completed, this shall not alter Buyer's obligation to close the purchase transaction. However, Buyer may, pending completion of such Repair Work, withhold in escrow at Settlement, a reasonable amount set by Seller in the exercise of the good faith reasonable judgment of the Seller, sufficient to pay for completion of such Repair Work. If such Repair Work is not completed within thirty (30) days after Settlement, the amount so escrowed may, at Buyer's option, be released to Buyer as liquidated and agreed damages for failure to complete the Repair Work. The exercise by the Buyer of the option to take the escrowed funds shall be deemed to be a full and final settlement of any damages to the Buyer by reason of the failure to timely complete and no other or further claim may be made by Buyer in connection therewith. As portions of the Repair Work are completed, the Buyer shall authorize interim releases to the Seller of some of the escrowed funds so long as the remaining funds remain sufficient to reasonably cover the remaining incomplete Repair Work. If the Buyer has not provided written notice to the escrow agent of the exercise of the option to retain the escrowed funds as liquidated damages within five (5) days after the expiration of the 30-day completion period, then the escrow agent shall disburse the funds to the Seller and be thereafter fully acquitted from further responsibility with respect to the same.

3.2 Settlement. Settlement shall take place on or before the Settlement Deadline referenced in Section 24(f). Settlement prior to the Settlement Deadline shall require the mutual written consent of Buyer and Seller. "Settlement" shall occur only when all of the following have been completed: (a) Buyer and Seller have signed and delivered to each other (or to the escrow/closing office), all documents required by this Contract, by written escrow instructions and by applicable law; (b) any monies required to be paid by Buyer under these documents have been delivered by Buyer to Seller or to the escrow/closing office, as appropriate, in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office, in the form of collected or cleared funds. Buyer also agrees to pay, at Settlement, a Transfer Fee in the amount of one percent (1%) of the Purchase Price. Buyer agrees to pay, at Settlement, a special assessment in the amount of \$3,000 per unit to establish an initial capital reserve for the *Grand Lodge Condominium Owners Association*. Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year shall be prorated at Settlement as set forth in this Section. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 24(f), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The transaction will be considered closed when Settlement has been completed, and when the applicable Closing documents have been recorded in the office of the Summit County Recorder, which shall occur within four calendar days after Settlement.

4. POSSESSION. Seller shall deliver physical possession to Buyer within twenty-four (24) hours after Closing as defined in Section 3 above. Buyer shall not deliver any personal possessions, including furnishings, to the Unit until after Buyer takes possession.

5. CONFIRMATION OF AGENCY DISCLOSURE. At the signing of this Contract:

[] Seller's Initials [] Buyer's Initials

The Listing Agent, Will Lange, represents [] Seller [] Buyer [] both Buyer and Seller as a Limited Agent

The Selling Agent _____, represents [] Seller [] Buyer [] both Buyer and Seller
As a Limited Agent

The Listing Brokerage, Prudential Utah Real Estate, represents [] Seller [] Buyer [] both Buyer and Seller
As a Limited Agent

The Selling Brokerage _____, represents [] Seller [] Buyer [] both Buyer and Seller
As a Limited Agent

6. TITLE INSURANCE. Seller agrees to pay at Settlement, for an ALTA standard coverage owner's policy of title insurance insuring Buyer in the amount of the Purchase Price.

7. SELLER DISCLOSURES. No later than the Seller Disclosure Deadline referenced in Section 24(b), Seller shall provide to Buyer the following documents that are collectively referred to as the "Seller Disclosures":

- (a) a pro-forma commitment for title insurance;
- (b) a copy of the draft declaration of covenants, conditions and restrictions (the "Declaration") for the Development;
- (c) a copy of the draft bylaws for the *Grand Lodge Condominium Owners Association* (the "Bylaws");
- (d) a copy of the Master Declaration Of Covenants, Conditions And Restrictions Of Flagstaff [now known as Empire Pass] A Planned Community with any amendments thereto to date (the "Master Declaration");
- (e) reduced copies of the Plans & Specifications for the Condominium Unit (the "Plans and Specifications"); and
- (f) proposed first annual budget for the *Grand Lodge Condominium Owners Association* (the "Association Budget").

Buyer acknowledges that neither Seller, nor any of Seller's agents, have made any representations of any kind regarding the investment potential from the Condominium Unit, including, but not limited to, potential rental income or appreciation in value.

[] **BUYER'S INITIALS.**

8. BUYER'S RIGHT TO CANCEL BASED ON EVALUATIONS & INSPECTIONS, RECORDING DEADLINE AND BUYER ACKNOWLEDGEMENTS. Buyer's obligation to purchase under this Contract is conditioned upon Buyer's approval of the content of each of the Seller Disclosures referenced in Section 7. Buyer's evaluation of the Seller Disclosures is referred to below as the "Evaluations & Inspections". Unless otherwise provided in this Contract, all Evaluations & Inspections shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with the Evaluations & Inspections. Buyer is advised that additional construction and development in and around the Deer Valley Ski Resort may occur. The additional development may impact Buyer's use and enjoyment of the Condominium Unit and *The Grand Lodge*, including but not limited to, view corridors from *The Grand Lodge* and the Condominium Unit. Consequently, as part of Buyer's Evaluations & Inspections, Seller strongly encourages Buyer to consult with planners, engineers, legal counsel and other professionals regarding all aspects of this transaction.

8.1 Evaluations & Inspections Deadline. No later than the Evaluations & Inspections Deadline referenced in Section 24(d) Buyer shall: (a) complete all Evaluations & Inspections; and (b) determine if the Evaluations & Inspections are acceptable to Buyer.

8.2 Right to Cancel Based on Evaluations & Inspections. If Buyer determines that the Evaluations & Inspections are unacceptable, Buyer may, no later than the Evaluations & Inspections Deadline, cancel this Contract by providing written notice to Seller, whereupon neither party shall have any further rights or obligations to each other under this Contract or otherwise. If by expiration of the Evaluations & Inspections Deadline, Buyer does not cancel this Contract as provided in this Section 8.2, then the Evaluations & Inspections shall be deemed approved by Buyer and Buyer shall be required to deposit the Earnest Money Deposit with the Title Company. Upon deposit of the Earnest Money Deposit with the Title Company, and subject only to the condition that if the Condo Establishment (as defined in Section 8.3 below) does not occur on or prior to the Recording Deadline (also as defined in Section 8.3 below) or Seller is unable to close the transaction in accordance with the terms hereof, the Earnest Money Deposit shall be and become absolutely and irrevocably committed funds that are non-refundable and the property of the Seller.

8.3 Recording Deadline. Seller shall have until August 1, 2005 (the "Recording Deadline") to record the final approved and authorized survey map or amendment thereto for the phase in which the Condominium Unit is to be located in the office of the Summit County Recorder (the "Condo Establishment"). If Seller fails to record such survey map by the Recording Deadline, Buyer may cancel this Contract by providing written notice to Seller no later than three (3) calendar days after the Recording Deadline; whereupon the Earnest Money Deposit, together with all accrued interest, and the Option Payment shall be released or returned to Buyer and neither party shall have any further rights or obligations to each other under this Contract or otherwise. In the event Seller records the survey map on or before the Recording Deadline, upon recordation of the survey map, and the fulfillment or waiver of any other applicable contingencies hereunder, the Earnest Money Deposit shall become totally non-refundable to Buyer, unless Seller is unable to close the transaction in accordance with the terms hereof, and the Title Company is authorized and directed to release to Seller the Option Payment and the Earnest Money Deposit, together with accrued interest, upon the recording of the survey map containing the Condominium Unit. Except as provided in Section 16 below, the Earnest Money Deposit may only be used by Seller for construction of the Condominium Unit, the condominium project building (the "Project Building"), construction of surrounding site improvements and landscaping, payment of real estate commissions, and related expenses.

8.4 Buyer Acknowledgements.

8.4.1 Buyer acknowledges and represents that the Buyer is making the offer for this Contract with the complete disclosure and understanding that the Condominium Unit is, in reality, yet a "proposed" condominium unit. In other words, Buyer intentionally and with full knowledge of the facts, is making this offer with the understanding and knowledge that under the laws of the State of Utah, the Condominium Unit does not exist as a recognized condominium unit until the survey map and the Declaration have been approved by the requisite governmental authorities and recorded in the real estate records of Summit County, Utah. In connection with the disclosure of the foregoing, Buyer has been afforded full opportunity to consult with professional advisors of Buyer's choosing and makes this offer knowingly and intentionally, notwithstanding the foregoing facts. In this regard, Buyer fully acknowledges that the identification of the Condominium Unit is based entirely upon a designation of the same on the Plans and Specifications that are being used currently by the Seller in connection with the construction of the Project Building in which the Condominium Unit is to be located and established.

8.4.2 Buyer acknowledges that further modifications to the Declaration, the survey map, the Plans and Specifications and/or related Development documents (collectively, the "Development Documents") may be necessary or desirable in order to carry out the Development. Seller shall have the right to make such modifications in its sole discretion prior to the recordation of the "as built" plat for the phase in which the Condominium Unit will be located; provided however, that if such modifications materially change the location or configuration of the Condominium Unit or diminish its size by more than five percent (5%), Seller shall advise Buyer of such proposed changes in writing prior to actually making such changes. If Buyer does not approve of such changes, Buyer shall notify Seller of such disapproval in writing within ten (10) days of receipt of Seller's notice of the proposed changes ("Buyer's Response Deadline"). If Buyer fails to respond by the Buyer's Response Deadline, Buyer's right to cancel this Contract based on such changes shall be deemed waived. Upon receipt of Buyer's notice of disapproval, Seller shall have ten (10) days to notify Buyer in writing of its decision to abandon such proposed changes, make such changes acceptable to Buyer or proceed with such changes. If Seller chooses to proceed with such changes, Buyer may cancel this Contract by notifying Seller of such cancellation in writing within ten (10) days of receipt of Seller's response to Buyer's notice of disapproval; whereupon, Seller shall return the Earnest Money Deposit, with accrued interest, and the Option Payment, to Buyer, after which Buyer and Seller shall have no further contractual rights or obligations to each other with respect to the construction of the Condominium Unit.

8.4.3 Buyer acknowledges that Seller may be directed by Park City Municipal Corporation or other governmental or quasi-governmental entities to make certain modifications to the Development or the Development Documents in order to obtain the requisite approvals or services. If any such required modifications to the Development or Development Documents or any other title or development-related issues make the Development either (a) not viable for Seller, or (b) contrary to Seller's fundamental concepts or plans for the Development, then Seller may, in its sole discretion, cancel this Contract by providing written notice to Buyer prior to the Recording Deadline; whereupon the Earnest Money Deposit, and accrued interest, and the Option Payment shall be returned to Buyer, after which Buyer and Seller shall have no further contractual rights or obligations to each other with respect to the construction of the Condominium Unit.

8.4.4 Buyer acknowledges that a condominium owners association (the "Association"), will be established by the date of recordation of the final "as built" plat for the Development. Buyer, by virtue of its ownership of the Condominium Unit, shall be a member of the Association and shall be subject to the Declaration, the bylaws of the Association and all rules and requirements of the Association adopted pursuant thereto. Buyer acknowledges that: (a) all roads within the Development are private; and (b) the Association, and not Park City Municipal Corporation, will be responsible for repair and maintenance of such private roads.

8.4.5 Buyer acknowledges that Seller's obligations under this Contract are contingent upon Seller's ability to successfully negotiate and enter into an agreement with a general contractor for the construction of the Development, the terms of which are reasonably acceptable to Seller. In the event Seller is unable to negotiate such an agreement with a general contractor prior to the Recording Deadline, Seller shall immediately notify Buyer in writing of such event, after which either party may terminate this Contract by providing the other party written notice of such desire to terminate (the "Termination Notice") within ten days of Buyer's receipt of Seller's notice of Seller's inability to negotiate a construction contract. Upon receipt by either party of the Termination Notice this Contract shall be terminated and Seller shall immediately return the Earnest Money Deposit, with accrued interest, and the Option Payment to Buyer, and Buyer and Seller shall have no further contractual rights or obligations to each other with respect to the construction of the Condominium Unit.

8.4.6 Buyer acknowledges that at the time the Evaluation & Inspection Deadline expires, certain Seller Disclosure documents (i.e. the draft Declaration, Bylaws, survey map and Association Budget) may not be in final form, and Buyer hereby covenants and agrees that acceptance of such documents shall constitute acceptance of the same documents in final form so long as the final form of such documents does not differ from the draft versions approved by Buyer in a way that would materially and substantially change the rights and responsibilities of Buyer under such documents.

9. ADDITIONAL TERMS. There **ARE** **ARE NOT** addenda to this Contract containing additional terms. The terms of the following addenda are incorporated into this Contract by this reference: (i) Exhibit "A" Escrow Agreement and (ii) Exhibit "B" Seller's Limited Warranty.

10. SELLER WARRANTIES & REPRESENTATIONS.

10.1 Condition of Title. Seller represents that, as of the Settlement Deadline, Seller will convey to Buyer, good and marketable title to Buyer by special warranty deed. The Condominium Unit will be delivered to Buyer at Closing, free and clear of mechanic's liens and claims for mechanic's liens. Buyer agrees however, to accept title to the Property subject to: easements; deed restrictions; rights of way; the Declaration; the Master Declaration; the Bylaws; and subject to the contents of the Commitment for Title Insurance as agreed to by Buyer under Section 8. Buyer agrees to be responsible for taxes, assessments, owners association dues, utilities, and other services provided to the Condominium Unit and the Development after Closing. Seller will pay off by Closing, all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants affecting the Condominium Unit.

10.2 Condition of Condominium Unit. Construction of the Condominium Unit shall be in accordance with the standards and requirements of Park City Municipal Corporation.

11. SUBSTANTIAL COMPLETION. The Condominium Unit shall be considered "Substantially Complete" when: (a) the final approved survey map has been recorded; and (b) a temporary or permanent certificate of occupancy has been issued by Park City Municipal Corporation. Subject to the exceptions referenced in Section 12, the Substantial Completion Deadline shall be as referenced in Section 24(e). Seller shall provide Buyer written notice of Substantial Completion.

12. PLANS AND SPECIFICATIONS. The Plans & Specifications contain descriptions of the type of materials to be used in finishing the Condominium Unit, and copies of the floor plans and exterior elevations for the Condominium Unit. Any requested changes by Buyer to the Plans and Specifications must be agreed to in writing by Seller, and Buyer shall be solely responsible to pay any increased costs resulting from such approved changes, including without limitation any additional interest, carrying costs or other costs of any kind resulting from construction delays or other circumstances caused by the accommodation of such approved changes, some or all of which may not be readily ascertainable to the parties at the time such changes are approved. The Condominium Unit shall be completed in substantial compliance with the Plans & Specifications. Buyer acknowledges however, that the Condominium Unit, upon Substantial Completion, may vary from exact dimensions shown on the Plans & Specifications.

Furthermore, subject to the cost and availability of materials, Seller reserves the right to substitute materials of substantially equivalent quality and of equal value in completion of the Condominium Unit. In the event the Condominium Unit is not Substantially Complete by the date provided in Section 24(e) of this Contract due to interruption of transport, availability of materials, strikes, labor shortages, fire, flood, weather, governmental regulations, acts of God, or similar occurrences beyond the control of Seller, the Substantial Completion Deadline shall be extended for a reasonable period of time based on the nature of the delay.

12.1 Insulation. Pursuant to the Federal Trade Commission's Trade Regulation Rule on Labeling and Advertising of Home Insulation (16 C.F.R., Part 460), set forth below is information for condominium units in *The Grand Lodge* and Common Areas of *The Grand Lodge*:

<u>Location</u>	<u>Type</u>	<u>Thickness (Inches)</u>	<u>R-Value</u>
Exterior Walls	Fiberglass Batt	six inches	R-19
Common Walls (Double wall construction)	Fiberglass Batt	six inches	R-19
Roof	Fiberglass Batt	12 inches	R-38

Buyer understands and acknowledges that the data on insulation, thickness and R-values may vary depending on local conditions and vagaries in construction including, but not necessarily limited to, such items as window openings in walls (which displace insulation thickness, etc.). Buyer agrees that information regarding R-value is based solely on information given to Seller by the appropriate manufacturers based on the thickness listed. Buyer agrees that Seller is not responsible for any such manufacturer's errors.

13. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company, or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller, and upon request shall provide evidence of such authority to the other party.

14. COMPLETE CONTRACT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties.

15. DISPUTE RESOLUTION. The parties agree that any dispute arising prior to or after Closing, related to this Contract shall first be submitted to mediation through a mediation provider mutually agreed upon by the parties. If the parties cannot agree upon a mediation provider, the mediation shall be conducted by the American Arbitration Association. Each party agrees to bear its own costs of mediation. If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this Section 15 shall prohibit any party from seeking emergency equitable relief pending mediation.

16. DEFAULT. The parties agree that it is difficult to determine actual damages that either party would incur in the event of default by either party. The parties do however, agree that the Earnest Money Deposit, together with accrued interest, and the Option Payment represent a fair and reasonable estimate of damages. Accordingly, the parties agree that if the Buyer defaults, the Seller's sole and exclusive remedy shall be to retain the Earnest Money Deposit, together with accrued interest, and the Option Payment. However, if the Seller defaults, the parties agree that the Buyer's sole and exclusive remedy shall be to receive: i) a refund of the Earnest Money Deposit plus interest thereon at an annual rate of seven percent (7%) from the date of receipt of the Earnest Money Deposit in escrow until the date of Seller's default; and ii) an amount equal to the amount of the Option Payment.

17. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. Attorney fees shall not be awarded for participation in mediation under Section 15.

18. NOTICES. Except as provided in Section 23, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

19. ABROGATION. The provisions of Sections 10.1, 10.2, 15, 16 and 17 shall survive Closing. The remaining provisions of this Contract shall not apply after Closing.

20. RISK OF LOSS.

20.1 Damage to Condominium Unit. Except as provided in Section 20.2 below, all risk of loss to the Condominium Unit, including physical damage or destruction to *The Grand Lodge* or its improvements due to any cause, except loss caused by a taking in eminent domain, shall be borne by Seller until Closing.

20.2 Construction Site Risk. Buyer understands that a construction site poses certain hazards and risks. Therefore, if Buyer enters the Condominium Unit and/or any portion of the construction site prior to completion of construction, Buyer does so at his/her sole risk. Further, Buyer shall not suggest or encourage any other person to enter the Condominium Unit and/or the construction site without the prior approval of Seller. Without limiting the generality of the foregoing, prior to Substantial Completion of the Condominium Unit, Buyer, his agents, employees and contractors, shall not perform any work or supply any materials relating to any improvement, alteration or change on or about the Condominium Unit, without the prior written consent of Seller. Any violation of this Section 20.2 will constitute a material breach of this Contract. Buyer understands and agrees that if at any time before Substantial Completion of the Condominium Unit, Buyer, any member of Buyer's family, or any other person who at the request, suggestion, permission, or knowledge of Buyer or any family member of Buyer (collectively the "Invitee"), enters the Condominium Unit and/or the construction site, with or without Seller's approval, Buyer and/or any such Invitee(s) assume all risk of bodily injury while doing so. Buyer agrees to indemnify and hold Seller harmless from any and all personal injuries or other damages incurred by Buyer or any such Invitee(s) under any theory of law, or from any damage to the Condominium Unit or other property of Seller or others, or injury to any other person caused by or resulting from the actions of Buyer or any such Invitee(s) while on or in the vicinity of the Development. As between Buyer and Seller, Seller shall bear the risk of loss of damage to the Condominium Unit as provided in Section 20.1 above, except for damage done or caused by Buyer or any Invitee, for which Buyer shall be solely responsible.

21. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in this Contract. Except as provided in Section 12, extensions must be agreed to in writing by Buyer and Seller. Unless otherwise explicitly stated in this Contract: (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (i.e., Acceptance, etc.).

22. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

23. ACCEPTANCE. "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

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

- (a) Application Deadline no later than ____ days after Acceptance
- (b) Seller Disclosure Deadline no later than ____ days after Acceptance
- (c) Pre-qualification Deadline no later than ____ days after Acceptance
- (d) Evaluations & Inspections Deadline no later than ____ days after Acceptance
- (e) Substantial Completion Deadline no later than _____(Date)
- (f) Settlement Deadline 21 days after the Buyer's receipt of written Notice of Substantial Completion

25. OFFER AND TIME FOR ACCEPTANCE. Buyer offers to purchase the Condominium Unit on the above terms and conditions. If Seller does not accept this offer by: _____ [] AM [] PM Mountain Time _____ 20____, this offer shall lapse; and the Brokerage shall return the Option Payment to Buyer.

(Buyer's Signature) (Offer Date) (Buyer's Signature) (Offer Date)

The later of the above Offer Dates shall be referred to as the "Offer Reference Date"

(Buyers' Names) (PLEASE PRINT) (Notice Address) (Phone)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE OF OFFER TO PURCHASE: Seller Accepts the foregoing offer on the terms and conditions specified above.

COUNTEROFFER: Seller presents for Buyer's Acceptance the terms of Buyer's offer subject to the exceptions or modifications as specified in the attached Counter Offer No. _____.

(Sellers' Signature) (Date) (Time) (Sellers' Signature) (Date) (Time)

(Sellers' Names) (PLEASE PRINT) (Notice Address) (Phone)

(Sellers' Names) (PLEASE PRINT) (Notice Address) (Phone)

REJECTION: Seller rejects the foregoing offer.

(Sellers' Signature) (Date) (Time) (Sellers' Signature) (Date) (Time)

Exhibit "A"

**ESCROW AGREEMENT
for
REAL ESTATE OPTION AND PURCHASE CONTRACT**

THE GRAND LODGE

**TO: COALITION TITLE AGENCY
2200 Park Ave., C-100
Park City, Utah 84068**

The undersigned deliver(s) to Escrow Agent, in escrow, the following-described documents and funds, which shall be held and disposed of by Escrow Agent in accordance with the following instructions, terms, and conditions:

I. DOCUMENTS & FUNDS DEPOSITED:

A. A copy of a fully executed Real Estate Option and Purchase Contract ("Contract") between _____ ("Buyer"); and Grand Lodge Partners, LLC, a Utah limited liability company ("Seller")

B. The sum of \$_____ in the form of [] Personal Check [] Direct Wire [] Other _____ ("Option Payment").

C. The sum of \$_____ in the form of [] Personal Check [] Direct Wire [] Other _____ ("Earnest Money Deposit")

II. HANDLING OF FUNDS:

A. Option Payment. I/we do hereby acknowledge that upon delivery by Grand Lodge Partners, LLC of a duly executed Contract, the Option Payment will have been fully earned by Grand Lodge Partners, LLC in accordance with the terms of the Contract and direct that Escrow Agent release and deliver the Option Payment to Grand Lodge Partners, LLC upon receipt of a Contract duly executed by Buyer and in accordance with the terms of the Contract. On the Settlement Date the amount of the Option Payment shall be credited toward the Purchase Price of the property described in the Contract.

B. Earnest Money Deposit. I/we do hereby direct that the Earnest Money Deposit, upon receipt in accordance with the terms of the Contract, be deposited/invested in an interest bearing account with a federally-insured depository doing business in the State of Utah selected by Escrow Agent in Escrow Agent's sole discretion based upon the following additional terms and conditions:

- (1) The Earnest Money Deposit shall initially be placed into a non-interest bearing trust account of Escrow Agent.

- (2) When the Earnest Money Deposit has cleared the depository upon which the Earnest Money Deposit is drawn, Escrow Agent shall place the Earnest Money Deposit into an interest bearing Money Market Account selected by Escrow Agent.
- (3) If Buyer cancels the Contract pursuant to the terms thereof, Escrow Agent is authorized and directed to release the Earnest Money Deposit, with accrued interest, to Buyer; whereupon these Escrow Instructions shall be deemed cancelled.
- (4) If Buyer does not cancel the Contract in accordance with the terms thereof, then, Escrow Agent shall not release the Earnest Money Deposit to Buyer, but shall release the Earnest Money Deposit to Seller or Seller's construction lender to be administered in accordance with the terms of the Contract, and on the Settlement Date the amount of the Earnest Money Deposit plus all accrued interest shall be credited toward the Purchase Price of the property described in the Contract.
- (5) With the exception of the requirement that all deposits shall be placed with a federally-insured depository, it is the intention of the parties that Escrow Agent shall have broad discretion in selecting the federally-insured depository. The parties acknowledge and agree that the general objectives are to enable the Earnest Money Deposit to accrue a reasonable interest rate and, at the same time, make the Earnest Money Deposit available for disbursement without penalty.
- (6) Escrow Agent is required to supply the depository institution(s) with the tax payer identification number. The depository institution, in turn, is required thereafter to report to the Internal Revenue Service, all interest earned on the Earnest Money Deposit.

C. Interest Earnings. Earnings and interest on Earnest Money Deposit held in Escrow Agent's escrow trust account shall be treated and handled in the following manner: (1) interest upon the outstanding principal amount of the Earnest Money Deposit shall become a part of the Earnest Money Deposit and shall follow the Earnest Money Deposit as provided in the Contract; (2) all such interest shall be attributed to the individual receiving a disbursement of the Earnest Money Deposit as required under the Contract; and (3) Escrow Agent shall report such earnings to the Internal Revenue Service on the appropriate forms.

D. Disbursement of Earnest Money Deposit. The Earnest Money Deposit shall be disbursed to the Buyer or Seller, as applicable, as required by the terms of the Contract, incorporated into these Escrow Instructions by this reference. Upon the closing of the transaction contemplated by the Contract, the amount of the Earnest Money Deposit, together with accrued interest, shall be applied against the Purchase Price for the Buyer's benefit.

E. Tax Identification Number. Buyer's federal taxpayer identification number is: _____; and Seller's federal taxpayer identification number is:_____.

F. Fee. Concurrently with the execution of these Escrow Instructions, Escrow Agent shall be paid a fee of \$_____, for acting as Escrow Agent. Said fee shall be: [] Paid by Seller [] Paid by Buyer [] Shared equally by Buyer and Seller.

III. ADDITIONAL TERMS: The following additional terms and conditions are included as part of these Escrow Instructions.

A . Escrow Agent acts hereunder as a depository only and is not responsible or liable in any manner whatsoever for the sufficiency, correctness, genuineness or validity of any instrument deposited with Escrow Agent or with respect to the form or execution of the same, or the identity, authority or rights of any person executing or depositing the same.

B. The parties have satisfied themselves as to the authority of any persons signing these Escrow Instructions in a representative capacity. Should these Escrow Instructions require Escrow Agent to accept or act upon any instructions or documents issued by any representative on behalf of any party, Escrow Agent may (but is not obligated to) require written authorization from the party represented by such representative as to such representative's authority before accepting or acting upon such instructions or documents.

C. No assignment or transfer of these Escrow Instructions or of any document or property, including money, held in this escrow or of any interest therein can be made except by mutual written consent of all parties including Escrow Agent.

D. All duties of Escrow Agent and conditions in connection with such duties are contained in these Escrow Instructions, and Escrow Agent shall not be charged with any duty or term or condition if not expressed in these Escrow Instructions.

E. In the absence of a clear mandate by these Escrow Instructions or the Contract, and in the event the parties place conflicting written demands on the Escrow Agent (regardless of their merit) or other dispute of any kind concerning this escrow or any item affected hereby, Escrow Agent shall be entitled, at Escrow Agent's option and without incurring any liability to any party, to refuse to comply with any claim or demand until the parties and Escrow Agent's obligations have been finally adjudicated by a court of competent jurisdiction, or fully resolved by a writing executed by all interested parties. In the event of any dispute concerning these Escrow Instructions or the subject matter hereof, Escrow Agent may, at its option, initiate an interpleader and/or declaratory judgment proceeding and Escrow Agent shall be entitled, at its own expense, and without incurring any liability to any party, to refuse to take any action hereunder until the rights and obligations of all interested parties, including Escrow Agent, have been finally adjudicated.

F. The parties acknowledged that Escrow Agent advises the parties to take the opportunity, should they choose to exercise it, to have their own counsel review these Escrow Instructions. Escrow Agent has not given the parties advice or in any way acted on behalf of the parties with respect to the preparation of these Escrow Instructions.

G. These Escrow Instructions may be enforced only by Escrow Agent and the parties hereto, and the parties do not intend that any third party be entitled to acquire rights under or to enforce these Escrow Instructions.

H. These Escrow Instructions contain the complete agreement of the parties and Escrow Agent, and all prior agreements and negotiations are merged herein. These Escrow Instructions may be altered or amended only through a writing and signed by the parties and Escrow Agent. To the extent there is any conflict between any term(s) of the Contract and these Escrow Instructions, the terms of the Contract shall control.

I. These Escrow Instructions shall be governed by and construed in accordance with the laws of the State of Utah.

Buyer Date

Buyer Date

GRAND LODGE PARTNERS, LLC

By: _____
Date

By: _____
Date

ACCEPTED AND AGREED this _____ day of _____, 20____.

COALITION TITLE AGENCY

By: _____

Its: _____

Exhibit "B"

Seller's Limited Warranty

REPC FOR UNPLATTED GRAND LODGE 1.31.05