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**SEASONS AT BILTMORE LAKE, A CONDOMINIUM**

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**PURCHASE AGREEMENT**  
**SEASONS AT BILTMORE LAKES, A CONDOMINIUM**

This Purchase Agreement (the "Agreement") is entered into effective the \_\_\_\_ day of \_\_\_\_\_, 200\_\_ (the "Effective Date") by and between MONTECITO NORTHVIEW, LLC, a Delaware limited liability company ("Seller"), and the following "Buyer":

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Buyer #1: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Country: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Office Phone: \_\_\_\_\_  
Soc Sec No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Home Phone: \_\_\_\_\_

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Buyer #2: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Country: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Office Phone: \_\_\_\_\_  
Soc Sec No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Home Phone: \_\_\_\_\_

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If more than one Buyer is listed above, they are jointly and severally referred to in this Agreement as the "Buyer." Seller and Buyer are sometimes jointly referred to in this Agreement as "the parties" or separately referred to as a "party."

WHEREAS, Seller has formed a residential Condominium ("Seasons at Biltmore Lake, a Condominium") or ("Condominium"), as defined in the Declaration referenced below, located at 1000 Vista Lake Drive, Candler, Buncombe County, North Carolina 28715, composed of the property referenced in the Property Description attached hereto as Exhibit A; and

WHEREAS, Buyer desires to purchase 24 residences in the Condominium in accordance with the terms set forth below.

NOW, THEREFORE, in consideration of the premises and benefits set forth below, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

**1. THE UNIT.**

**1.1. Residential Unit Description.**

Seller shall sell to Buyer and Buyer shall purchase from Seller, on the terms set forth below, Unit Numbers \_\_\_\_\_ (the "Unit"), in the Condominium. The location and approximate configuration of the Unit are generally shown on the Plans attached to the Public Offering Statement for the Condominium as Exhibit G (hereinafter referred to as the "Plans"), such Plans being incorporated herein by this reference, and such Public Offering Statement having been delivered to Buyer prior to Buyer's execution of this Agreement with such Exhibit G attached, as more particularly referenced in Section 6.1 of this Agreement.

**1.2. Ownership.**

The name(s) in which title to the Unit shall be taken is/are:

\_\_\_\_\_

**2. PURCHASE PRICE.**

**2.1. Schedule of Payments.**

The Purchase Price for the Unit is payable as follows:

A. Purchase Price	\$ _____
B. PLUS 10% Buyer's Premium	\$ _____
<b>TOTAL PURCHASE PRICE:</b>	\$ _____
C. (LESS): Initial Deposit	\$ 100,000.00
D. (LESS): Additional Deposit (to be paid to Escrow Agent on Wednesday, December 9, 2009 by 5:00 P.M., E.S.T. – calculated as the difference between 10% of the Total Purchase Price and the Initial Deposit)	\$ _____
<b>BALANCE DUE AT CLOSING</b> (This figure does not include Closing Costs set forth in Section 10 and is subject to any adjustments and prorations provided herein.)	\$ _____

**2.2. Form of Payments.**

All Purchase Price funds shall be paid in United States Dollars by cashier's check drawn on a U.S. bank or by confirmed wire transfer to an account specified by Escrow Agent. The Deposit(s) referenced in Section 2.1 above shall be deposited in escrow with Escrow Agent identified in Section 3, below, for deposit into Escrow Agent's Trust Account at Hometrust Bank, 10 Woodfin Place, Asheville, NC 28802 to remain in such account for the seven (7) day period within which Buyer is entitled to cancel this Agreement pursuant to North Carolina General Statutes Section 47C-4-108, or cancellation by the Buyer, whichever occurs first. If such seven (7) days have lapsed and Buyer did not cancel the Agreement, such Deposit shall become non-refundable (except as otherwise specifically set forth herein) and shall be released by Escrow Agent to Seller and credited to Buyer at closing. If Buyer elects to cancel the Agreement within such seven (7) day period, upon written notice to Seller given within such seven (7) day period, Escrow Agent shall return the Deposit to Buyer and this Agreement shall terminate.

**2.3. Cancellation of Agreement; Termination Rights.**

(a) **BUYER MAY CANCEL THIS AGREEMENT WITHIN SEVEN (7) DAYS FOLLOWING THE DATE OF THE AGREEMENT. ANY DEPOSIT PAID BY BUYER SHALL BE RETURNED TO BUYER IF THIS AGREEMENT IS CANCELLED WITHIN THIS SEVEN (7) DAY PERIOD.**

(b) Effect of Cancellation or Termination. Cancellation or termination by Buyer under this Section is without penalty, and if this Agreement is cancelled or terminated under this Section, upon return of the Deposit(s) referenced in Section 2.1 of this Agreement to Buyer, neither party shall have any further rights or obligations hereunder.

**3. BROKERS;ESCROW AGENT.**

**3.1 Listing Broker; Rights and Duties.**

Montecito Realty, Inc., a Florida corporation qualified to do business in North Carolina

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

("Broker") is the listing broker for the Unit and represents the Seller.

(A) All sales commissions will be paid on the "Purchase Price" after consideration for credits.

**3.2 Escrow Agent; Rights and Duties.**

Hollifield Law Offices P.C. is the escrow agent (the "Escrow Agent") for the Deposit(s) pursuant to this Agreement and the Escrow Agreement dated on or about the date hereof between Escrow Agent and Seller.

- (a) THE DEPOSIT(S) REFERENCED IN SECTION 2.1 OF THIS AGREEMENT SHALL BE DEPOSITED BY ESCROW AGENT IN AN ESCROW ACCOUNT IN AN INSURED BANK OR SAVINGS AND LOAN ASSOCIATION IN NORTH CAROLINA UNTIL RELEASED TO SELLER OR BUYER AS PROVIDED HEREIN.
- (b) Escrow Agent's address for purposes of mailing or delivering documents and notices hereunder is as follows:

Hollifield Law Offices, P.C.  
 c/o Joseph Taylor, Esq.  
 19 Zillicoa Street, Suite 200  
 Asheville, NC 28801  
 Telephone No. 828.255.8282  
 Facsimile No. 828.255.8299

**4. CLOSING.**

Unless otherwise approved by Seller in writing, or unless additional time is reasonably required by the Seller in order to comply with Section 9.3, closing of the purchase of the Unit (the "Closing") shall occur on or before Monday, January 11, 2010 (the "Closing Date"). Closing shall occur on the Closing Date at such time and place in North Carolina or by U.S. Mail, during normal business hours, as determined by Seller. Buyer shall not have the right to delay or reschedule the Closing (time being of the essence as to Buyer's performance obligations under this Agreement) for any reason without Seller's approval, which approval may be withheld or given in Seller's sole discretion. If Buyer fails to close on the Closing Date, Seller at its sole option, may terminate this Agreement and retain the Deposit as full liquidated damages.

**5. FINANCING.**

**5.1. Financing.**

Check the appropriate box.

(a) [ X ] Buyer represents to Seller that mortgage financing is **not** necessary or desirable for Buyer to complete this transaction and this Agreement is **not** contingent upon Buyer's ability to obtain mortgage financing;

**or**

(b) [ ] Buyer represents to Seller that mortgage financing **is** necessary or desirable for Buyer to complete this transaction and this Agreement **is** contingent upon Buyer's ability to obtain mortgage financing if Buyer uses a Preferred Lender.

**5.2. All Cash Transaction.**

If Buyer has represented in subsection 5.1(a) above that mortgage financing is **not** necessary or desirable for Buyer to close this transaction, Buyer shall provide to Seller written verification of the source and adequacy of funds to close this transaction within five (5) days after the date of

this Agreement. If Buyer fails to provide written verification of the source and adequacy of funds to close this transaction, satisfactory to Seller, Seller, at its sole option, may terminate this Agreement and cause the Deposit to be returned to the Buyer and neither party shall have any further rights, obligations and liabilities under this Agreement.

**6. RELEVANT DOCUMENTS; BINDING EFFECT.**

**6.1. Receipt of Relevant Documents.**

Buyer acknowledges that Buyer has read this Agreement and, prior to signing this Agreement, Buyer has received from Seller and had an opportunity to read and ask questions regarding:

- (a) a copy of Declaration of the Condominium for the Condominium recorded or to be recorded in the Register of Buncombe County, North Carolina (such document, with any exhibits, amendments or supplements thereto, being referred to herein as the "Declaration"); and
- (b) a Public Offering Statement, attached to which is, among other things, the Articles of Incorporation and Bylaws of the Association, together with an estimated operating budget for the for the first full year of operation of the Association after recordation of the Declaration, and copies of the Plans.

**6.2. Documents Binding On Buyer; Assessments.**

Buyer acknowledges that (i) as Owner of the Unit, Buyer and the Unit shall be subject to the provisions of the Declaration and the Bylaws of the Association, (ii) the Declaration and the Bylaws may be changed in certain non-material respects prior to recording, and may thereafter be amended by the Seller under certain conditions defined therein and (iii) such modifications shall not be grounds for Buyer's failure to close unless the modification would impose an additional, substantial financial burden on Buyer. Buyer also acknowledges that Article X of the Declaration imposes on the Buyer an obligation to pay regular and special assessments to the Association, plus an initial contribution at Closing equal to two (2) months of regular assessments.

**7. SELECTIONS AND OTHER BUYER DECISIONS.**

If Seller requests a decision from Buyer regarding a matter relating to this Agreement, Buyer shall notify Seller of Buyer's decision within three (3) calendar days (or such additional time as Seller may authorize in writing) of notice from Seller. If Buyer does not make any selection or decision in a timely manner, Seller may make the selection or decision and such selection or decision shall be binding on Buyer.

**8. UNIT CONDITION; WARRANTY; INSPECTIONS**

**8.1. Modifications And Repairs.**

Seller is not obligated to cause any modifications or repairs to be made to the Unit. 8.2. No Warranty; Unit Purchased "As Is".

(a) BUYER ACKNOWLEDGES THAT THE UNIT AND BUILDING ARE NOT NEW; WERE NOT DESIGNED OR CONSTRUCTED BY SELLER OR ITS AGENTS; AND, WERE PURCHASED BY SELLER IN THEIR "AS IS" CONDITION. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONDOMINIUM, THE BUILDING, OR THE UNIT, OR THE SALE OF THE UNIT, AND DISCLAIMS ANY AND ALL SUCH WARRANTIES, WITH THE EXCEPTION THAT IF AND ONLY TO THE EXTENT THAT THE IMPLIED WARRANTY DESCRIBED IN §47C-4-114 OF THE ACT MAY NOT BE DISCLAIMED, THEN SELLER WARRANTS THAT "THE PREMISES ARE FREE FROM DEFECTIVE MATERIALS, CONSTRUCTED IN A WORKMANLIKE MANNER, CONSTRUCTED ACCORDING TO SOUND ENGINEERING AND CONSTRUCTION STANDARDS," AND ARE SUITABLE FOR RESIDENTIAL USE.

(b) Buyer acknowledges that Seller is making no warranty, representation or promise of any kind relating to such matters. Buyer therefore releases Seller from and covenants not to sue

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

Seller regarding any claim that arises from or relates to the subject matter of the warranty, regardless of how such claims are denominated, including, without limitation, claims for breach of warranty, breach of contract, fraud, misrepresentation, negligence, willful or wanton negligence, and unfair and deceptive trade practices. The warranties disclaimed in subparagraph (a) above, to the full extent that such warranties may be disclaimed under the Act, include, without limitation, any warranties (express or implied) with respect to the appliances, heating and air conditioning systems, water heaters, water or sewer systems, electric systems, plumbing fixtures, lighting fixtures, structural elements of the building, design flaws, equipment, personal property located in the Condominium, views from the Unit, sound and/or odor transmission, the existence of molds, mildew, spores, fungi and/or other toxins within the Unit and/or the Condominium, and statements or representations made by sales center representatives, and representations contained in sales or marketing materials (which materials do not include the Public Offering Statement and the Condominium documents) distributed by Seller or its sales representatives (including but not limited to representations regarding potential appreciation or resale value; current or future "views" from the Unit; traffic conditions in, near or around the Condominium; disturbances from nearby properties or from air or vehicular traffic; or future use(s) of adjacent properties). In addition, Seller makes no representations or warranties as to the condition or health of any shrubs, trees, or plantings located within the Condominium, but will deliver to the Association any nursery's warranties (if any) with respect to such shrubs, trees or plantings. As to any warranty which cannot be disclaimed entirely, all secondary, incidental, consequential, exemplary, punitive, and special damages of any sort, and all claims for treble damages, are specifically excluded and disclaimed.

Seller will furnish to the Buyer or to the Association, as applicable, all transferable manufacturers' warranties which are in effect, if any, and which pertain to personal property within the Unit purchased, or personal property to be owned by the Association.

Any claims based on alleged warranties or alleged defects in the design or construction of the improvements within or comprising any part of the Condominium or the units therein must be asserted in accordance with the procedures set forth in Sections 19.3 and 19.4 of the Declaration, or they are waived and are not valid. As provided in Section 19.4 of the Declaration, such claims must be asserted not later than one (1) year following the date that the essential facts giving rise to the claim were or reasonably should have been discovered, provided, however, that in no event shall any such claim be valid unless it is asserted within three (3) years after the last act by the party against whom relief is sought giving rise to the claim.

In addition to the above, to the fullest extent allowed by law, Seller and Buyer waive the following: (1) the right to join the claims of multiple claimants in a single proceeding or certify a class action or similar proceeding; (2) any award of secondary, incidental, consequential, exemplary, punitive, and special damages of any sort; and (3) award of treble damages or any other damages which are greater than compensatory damages or which are based on a multiple of compensatory damages.

(c) NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ANY WARRANTY PROVIDED BY THE SELLER TO THE BUYER OF THE UNIT DOES NOT COVER ANY APPLIANCE, PIECE OF EQUIPMENT, OR ITEM WHICH IS A CONSUMER PRODUCT FOR PURPOSES OF THE MAGNUSON MOSS WARRANTY ACT (15 U.S.C., §§2301 THROUGH 2312).

(d) The provisions of this Section 8.2 shall survive the Closing.

## **9. TITLE.**

### **9.1. Permitted Exceptions.**

At Closing, Seller shall convey marketable title to the Unit to Buyer by special warranty deed (the "Warranty Deed"), free of all liens and encumbrances except for the following:

1. Taxes and assessments not yet due;

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

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2. Recorded easements, permits, encroachments, covenants, dedications, restrictions, and other matters of record that do not preclude delivery of marketable fee simple title or use of the Unit for a residence;
3. Zoning, building, and other governmental laws, regulations and restrictions that do not preclude delivery of marketable fee simple title or use of the Unit for a residence;
4. All facts and conditions that would be shown by current survey or current on-site examination of the Unit that do not preclude delivery of marketable fee simple title or use of the Unit for a residence, and any other standard exceptions and exclusions typically contained in ALTA owner's title insurance policies for condominium residential property in North Carolina;
5. If the Unit is sold subject to a lease, the rights of the tenant under the lease;
6. The Declaration, as defined in Section 6, above, including all exhibits thereto, and all provision therein; and
7. Such other exceptions as are acceptable to Buyer pursuant to Section 9.3 below.

**9.2. Seller Pays For Title Insurance.**

Buyer selects Seller's designated law firm as its closing attorney. Seller, at its expense, shall deliver to Buyer an owner's title insurance commitment (the "Title Commitment") issued by a title insurer selected by Seller and licensed to do business in North Carolina (the "Title Insurer") to insure the title to the Unit in Buyer's name for the Purchase Price; and (a) if Buyer elects to obtain a first mortgage loan from an institutional lender and provides timely applicable information to Seller's designated law firm, Seller, at its expense, shall also deliver to such lender a lender's title insurance commitment in the amount of the first mortgage loan (provided that the loan is no greater than the Purchase Price). After the Closing, Seller, at its expense, shall cause the Title Insurer to issue to Buyer, and, if applicable, to Buyer's lender, a title insurance policy in conformity with the Title Commitment.

**9.3. Cure Of Title Defects.**

If a title commitment discloses any material and adverse title defects other than the Permitted Exceptions and Buyer is unwilling to waive such defects, Buyer shall give Seller written notice of such defects within three (3) calendar days from the date of receipt of the title commitment. Seller shall have fourteen (14) calendar days from receipt of notice from Buyer within which to cure any title defect(s), submit reasonable evidence that there is no defect, or obtain title insurance to cover such defect. If, within such period, Seller notifies Buyer (the "Title Notice") that Seller is unable or unwilling to cure a title defect, or submit reasonable evidence that there is no defect, or obtain title insurance to cover such defects, Buyer shall have seven (7) calendar days from receipt of the Title Notice to (a) notify Seller in writing that Buyer requests a refund of the Deposit, which funds shall then be promptly returned to Buyer and the parties shall be released from all further obligations under this Agreement; or (b) waive its rights to object to the defect, accept title as it is, and proceed with Closing. If Buyer does not notify Seller in writing that Buyer requests a refund of the Deposit within seven (7) calendar days from receipt of the Title Notice, then Buyer shall be deemed to have elected option (b) and Closing shall occur within fourteen (14) days from receipt of the Title Notice by Buyer, without adjustment in the Purchase Price.

**10. OTHER PAYMENTS AND ACTIONS AT CLOSING.**

**10.1. Payments By Seller and Buyer.**

Seller shall pay for the preparation of the deed to the Unit; recording of any mortgage release and any transfer taxes; Seller's legal fees; Seller's Broker's sales commission; Cooperating Broker's sales commission; any prorations that are the responsibility of Seller pursuant to Section 10.2, below; and title insurance premiums and related costs. The Buyer shall be responsible for the deed recording charges and all other Closing costs, including the amount equal to two (2) months

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

assessments due on the Unit as an initial nonrefundable contribution to the Association. Such initial contribution may be used for any purpose that the Association deems appropriate, including without limitation, reimbursement to Seller for amounts advanced by Seller for Association expenses, including any insurance premiums paid in advance by Seller.

**10.2. Prorations.**

Any taxes, Condominium assessments, insurance premiums and other charges relating to the Unit that relate to periods both before and after Closing shall be prorated between the parties as of the date of Closing. Taxes shall be prorated based on the current year's tax with allowance made for any allowable discounts for timely payment. If the property taxes for the current year are not available, taxes shall be prorated based on the prior year's tax, and Buyer shall be responsible for payment of the actual tax.

**10.3. Closing Delays.**

If Closing is delayed beyond the scheduled Closing date without fault of Seller and because of the request of the Buyer or any failure of the Buyer to perform in a timely manner any obligation under this Agreement, charges under Section 10.2 shall be prorated as of the originally-scheduled Closing date. **10.4. Other Closing Documents.**

At Closing, the parties shall execute or deliver such other documents as are required by law or as are consistent with standard practice in residential closings in Buncombe County, North Carolina.

**11. BUILDING CHANGES.**

Seller reserves the right to cause cosmetic, decorative, architectural, structural, and design modifications to be made to the Unit or improvements constituting the common elements of the Condominium as Seller deems necessary or desirable, or in the material, personal property and equipment contained therein. Buyer shall consummate the Closing notwithstanding any such modifications, changes or substitutions, provided that (a) no such modification or change shall materially adversely alter the dimensions, size or the value thereof, and (b) any substitution of material, equipment, or appliances shall be of equivalent or better quality.

**12. DEFAULT, CURE AND REMEDIES; DISPUTE RESOLUTION.**

**12.1. Default.**

If a party defaults under this Agreement, the non-defaulting party shall notify the defaulting party of the default and the defaulting party shall have five (5) calendar days from notice of the default (or such longer period of time as the non-defaulting party may authorize in writing) to cure the default. However, no notice of default or time to cure shall be required by Seller in matters relating to Buyer's obligation to pay funds or provide notice to Seller by a specified date. Unless otherwise defined, a "default" shall be the failure to perform any material obligation set forth in this Agreement relating to the performance of this Agreement.

**12.2. Remedies For Seller if Default Occurs Prior to Closing.**

If Buyer defaults prior to Closing and fails to cure in a timely manner, Seller may, after notice to Buyer, retain the Deposit paid by the Buyer as liquidated damages, and not as a penalty, because of the difficulty of ascertaining actual damages. The provisions herein contained for liquidated and agreed upon damages are bona fide provisions for such and are not a penalty, the parties understanding and agreeing that Seller will have sustained damages if a default occurs, which damages will be substantial but will not be capable of determination with mathematical precision and, therefore, the provision for liquidated and agreed upon damages has been incorporated in this Agreement, as a provision beneficial to both parties. In such event, this Agreement shall terminate and neither party shall have any further obligations under this Agreement. The liquidated damages specified herein shall apply only to damages resulting from a Buyer default prior to Closing, and not for damages resulting from any other cause or event, such as tortious conduct by Buyer before or after Closing that damages Seller.

**12.3. Remedies For Buyer if Default Occurs Prior to Closing.**

If Seller defaults prior to Closing and fails to cure in a timely manner, Buyer may, by notice to Seller, demand a refund of the Deposit paid by the Buyer. In such event, upon confirmation from Seller that Seller has defaulted, or upon final determination in any litigation or arbitration that Seller has defaulted, then as Buyer's sole and exclusive remedy, the Deposit shall be refunded to Buyer, as full liquidated damages, this Agreement shall terminate, and neither party shall have any further obligations under this Agreement. No other remedies shall be available to Buyer for a Seller default prior to Closing.

**12.4. Attorney's Fees And Costs.**

This Agreement, in Section 12.5 below, provides for mandatory arbitration of disputes that arise out of or relate to this Agreement. Without waiving or limiting the exclusiveness of arbitration as a remedy, in the event of litigation between the parties, the prevailing party in such litigation shall be entitled to recover reasonable attorneys' fees and related costs through the conclusion of any appellate proceedings. The "prevailing party" shall be as defined in Section 12.5(b) below.

**12.5. Dispute Resolution.**

(a) Buyer and Seller acknowledge and agree that if any controversy or claim or complaint arising out of or relating to this Agreement between Buyer and Seller or the marketing or sale of any condominium unit ("Dispute") that may arise before closing is not resolved by mutual agreement, then the parties, before resorting to arbitration, shall first endeavor to resolve the Dispute through mediation using a neutral mediator who is mutually agreeable to the parties, such agreement not to be unreasonably withheld. Mediation shall be an express condition precedent to any right to institute an arbitration proceeding, and this condition precedent shall be excused only if a party in bad faith fails to participate in mediation.

(b) If a Dispute is not resolved through mediation, the sole and exclusive means for resolving that Dispute shall be through binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect. If the Commercial Arbitration Rules no longer exist or are called by a different name, then the rules that apply shall be those most similar to the Commercial Arbitration Rules. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction and shall accrue interest from the date awarded in arbitration at the Wall Street Journal published Prime Rate plus four (4%) per annum until paid. The arbitration proceedings shall be conducted in Buncombe County, North Carolina before a neutral arbitrator selected by the parties who is a member of the Bar of the State of North Carolina, has been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions or in litigation with substantial experience in the subject matter of the Dispute. If the parties cannot agree on an arbitrator, one shall be appointed in accordance with applicable AAA procedures, but such arbitrator must still have the qualifications set forth above. Unless otherwise deemed appropriate by the arbitrator, the prevailing party shall be entitled to an award of all reasonable out-of-pocket costs and expenses (including filing fees, attorney fees, and arbitrator compensation) related to the arbitration proceeding. The "prevailing party" in the proceeding shall not be determined solely by whether there is affirmative monetary recovery by that party, but shall be determined by the totality of the facts and circumstances, including the outcome in relation to the relief sought by a party.

(c) Notwithstanding any provision of law to the contrary, and without in any way limiting the exclusiveness of arbitration as a remedy for resolving Disputes, Buyer and Seller acknowledge and agree that the arbitrator in any arbitration proceeding hereunder shall not have authority to do any of the following: (1) join the claims of multiple claimants in a single proceeding or certify an arbitration class action or similar proceeding; (2) award secondary, incidental, consequential, exemplary, punitive, and special damages of any sort; or (3) award treble damages or any other damages which are greater than compensatory damages or which are based on a multiple of compensatory damages.

(d) Notwithstanding any provision of law (including any statute of limitations or repose) to the contrary, and without in any way limiting the exclusiveness of arbitration as a remedy for resolving Disputes, Buyer and Seller agree that any claim or matter which is part of a Dispute must

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

be asserted in arbitration no later than one (1) year following the date that the essential facts giving rise to the claim were or reasonably should have been discovered, provided, however, in no event shall any claim or matter be valid unless it is asserted within three (3) years after the last act of the respondent giving rise to the claim.

(e) The preceding binding arbitration provisions shall not prohibit any party's ability (prior to or in connection with an arbitration proceeding or after an arbitration action is brought) to obtain provisional or ancillary remedies including injunctive relief, sequestration, garnishment, attachment, appointment of receiver and filing an involuntary bankruptcy proceeding.

(f) Any controversy, dispute or claim that is defined as a "Covered Claim" or as an "Exempt Claim" and arises after the closing shall be governed by Article XIX of the Declaration which is incorporated by reference as if fully set forth herein. The provisions of this Section 12 shall survive the Closing.

### **13. DEVELOPMENT ACTIVITIES.**

Buyer acknowledges that portions of the Condominium may be under renovation and sale for a period beyond the Closing, and, as a result, the enjoyment of the Unit may be disrupted to some extent by construction, marketing activities or the process of allowing other persons to move into their Units. From time to time, Seller may present to the public renderings, plans, models, visual statements or presentations discussing the Condominium (the "Materials"). Seller does not warrant that the concepts set forth in the Materials will be accomplished. The obligations of Seller to Buyer are limited to those set forth in this Agreement.

### **14. NOTICES.**

#### **14.1. Notice Procedure.**

Whenever notice is required or permitted under the terms of this Agreement, it shall be in writing and (a) personally delivered or (b) sent postage or delivery charges prepaid either (i) by United States certified mail, return receipt requested, in which case notice shall be deemed to occur on the certified date of delivery or rejection of delivery or (ii) if within the United States, by First Class United States mail, in which case notice shall be deemed to occur three (3) calendar days after date of postmark, or (iii) by any dependable express delivery service that provides evidence of delivery, in which case notice shall be deemed to occur on the date of delivery. Notice by other methods, such as by facsimile or e-mail transmission, shall be valid if receipt is acknowledged in writing.

#### **14.2. Notice Addresses.**

Notices to Buyer shall be addressed to the name and address of Buyer #1 stated on page 1 of this Agreement. Buyer #1 shall be responsible for communicating any notice received to any co-Buyer.

Notices to Seller shall be addressed to:

Montecito Northview, LLC  
c/o Montecito Residential, LLC  
1307 W. 6th Street  
Corona, CA 92882  
ATTN: Jeffrey A. Johnson

The address of Buyer or Seller may be changed by proper notice to the other party, but neither party shall be required to send notices to more than one address.

### **15. OTHER STATEMENTS AND REPRESENTATIONS.**

Seller has not authorized any sales person or other agent to make any statements or representations, or to agree to any contractual undertakings, regarding matters in or relating to this Agreement, unless such statement, representation or contractual undertaking is in writing and signed by Seller's authorized representative. By signing this Agreement, Buyer acknowledges that

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

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(a) no sales person or agent has made any statement, representation, assurance, or promise not contained in this Agreement or in a writing signed by Seller's authorized representative; (b) in making this purchase, Buyer is not relying upon any statement, representation or contract made by a sales person or agent that is not in writing and signed by Seller's authorized representatives; and (c) neither Seller nor any agent of Seller has made any representation on which Buyer has relied regarding expected income from, or the investment value of, the Unit the possibility of profit or loss resulting from ownership of the Unit, or the tax consequences of ownership of the Unit. The Unit will not be registered under North Carolina or Federal securities law or interstate or intrastate land sales law.

## **16. MISCELLANEOUS.**

### **16.1. Other Understandings And Amendments.**

This Agreement constitutes the entire agreement between the parties and supersedes any previous agreement or understandings between the parties relating to the Unit. No oral statements shall modify this Agreement. All modifications to the Agreement shall be in writing and signed by the parties.

### **16.2. Assignment; Binding Effect.**

The Agreement is not assignable by Buyer without the express written consent of Seller, which consent may be given or withheld at Seller's sole discretion. Seller may assign this Agreement to any lender as security for financing or to any entity in which Seller is a shareholder, member or partner. The words "Buyer", "Seller", "parties" and "party" herein include their heirs, administrators, executors, legal representatives, successors and permitted assigns. The words and any pronouns relative thereto also include the masculine, feminine and neuter gender, and the singular and plural number, whenever required to interpret the Agreement reasonably.

### **16.3. Backup Agreements.**

Seller may accept backup purchase agreements for the Unit on any terms it elects, but only subject to Buyer's express rights under this Agreement.

### **16.4. Casualty To Unit.**

Seller shall bear the risk of loss to the Unit until the Closing. After Closing, Buyer shall bear the risk of loss. If casualty prior to Closing damages the Unit or other portions of the Condominium to such a degree that Seller determines that it is not feasible to proceed with Closing, Seller may terminate this Agreement by written notice to Buyer, in which event the Deposit shall be refunded to Buyer. Thereafter, neither party shall have any obligations under this Agreement.

### **16.5. Corporations, Partnerships And Other Entities.**

If Buyer is a corporation, partnership, joint venture, limited liability company, trust or any other similar entity, Buyer shall deliver to Seller at or before Closing a copy of any approval required by Buyer's governing documents, in form acceptable to Seller, authorizing the purchase of the Unit and the execution of any documents relating to such purchase, together with such other evidence of good standing or existence as Seller may reasonably require. Notwithstanding, Seller shall have no obligation to demand such documents and execution of this Agreement on behalf of Buyer by a person having apparent authority to execute the Agreement shall be binding upon Buyer.

### **16.6. Recording.**

This Agreement shall not be recorded in the public records and execution thereof does not create any lien or right of lien in favor of Buyer.

### **16.7. Business Days; Time Of The Essence.**

A "Business Day" is any day other than a day than a Saturday, Sunday, or North Carolina state holiday. Time is of the essence for this Agreement.

**16.8. Authority of Sales Representative.**

The authority of the sales representatives for the Seller is limited and confined to securing Buyers for units in the Condominium on the terms and conditions set out in this Agreement and not otherwise, and the sales representatives have no power or authority to make any change, modification, stipulation, inducement, promise or other representation whatsoever other than those specifically stated herein.

**16.9. Governing Law.**

This Agreement shall be governed by the laws of the State of North Carolina.

**16.10. Insulation.**

The building in which the Unit is located has insulation with a minimum R-value of R-30 at the roof. The exterior walls of the building have insulation with a minimum R value of R-13. All common or demising interior walls that separate units have a minimum R value of not less than R-11.

**16.11. Appendix One; Disclosure.**

Appendix One is attached hereto and incorporated herein.

**16.12. Existence Of A Lease.**

If this Agreement is for the sale of Unit subject to a lease or sublease, check here: (see Exhibit A)

If the space above is checked, a copy of the lease or sublease is attached hereto as Exhibit B.

Seller makes no representations as to the status of any lease of the Unit. Seller retains no control over any tenant or their ability to breach or terminate the lease. Buyer, upon Closing, should take steps to ascertain tenant status for the Unit.

**16.13. Residential Property Disclosure Act.**

Pursuant to the Residential Property Disclosure Act, N.C.G.S.A. § 47E-2 (11), Buyer and Seller hereby agree not to complete a residential property disclosure statement.

**17. RESTRICTIONS ON USE OF BILTMORE LAKE COMMUNITY AMENITIES;  
QUARRY.**

The Condominium is adjacent to the Biltmore Lake Community. However, the Condominium is not a part of the Biltmore Lake Community and the Buyer, any member of the Buyer's household, or a guest or other person under the Buyer's control, including any tenant or occupant of the Unit, do not have the right to use the Biltmore Lake trails, lake, clubhouse, playgrounds or any other Biltmore Lake amenities. The Buyer, any member of the Buyer's household, or a guest or other person under the Buyer's control, including any tenant or occupant of the Unit agree not to use Biltmore Lake amenities and agree to defend, indemnify, and hold harmless Biltmore Farms, Inc., Biltmore Lake Association, Inc. and their members, officers, employees, shareholders, agents and representatives from and against all claims, losses, damages, liabilities or costs, including reasonable attorney's fees, relating to injury to persons or damage to property resulting from their unauthorized use of Biltmore Lake amenities.

Buyer acknowledges and agrees that a rock quarry is located approximately 1200 feet west of the Property. The operations of the quarry may create loud noises from blasting and mining activities and other hazards typical of a quarry operation. Seller shall have no liability as a result of any nuisance, hazard, or other condition resulting from the rock quarry and makes no representation or warranty regarding nuisances, hazards or other conditions resulting from the rock quarry.

The provisions of this Section 17 shall survive the Closing.

**IN WITNESS WHEREOF**, the parties have executed this Agreement.

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

**BUYER:**

**MONTECITO NORTHVIEW, LLC,** a  
Delaware limited liability company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Printed Name:\_\_\_\_\_  
Title: Vice President

Date:\_\_\_\_\_, 200\_\_

Date:\_\_\_\_\_, 200\_\_

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

**ESCROW AGENT:**

The undersigned Escrow Agent has received the amount specified in Section 2 of this Agreement.

Hollifield Law Offices, P.C., a North Carolina professional company

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_, 200\_

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

**EXHIBIT A: PROPERTY DESCRIPTION**

The Unit shall be part of the Seasons at Biltmore Lake, a Condominium, formed or to be formed by Seller by recordation of the Declaration (as defined in the Agreement), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes, entitled "North Carolina Condominium Act," as amended from time to time. The following property will be subject to the Declaration:

ALL that certain piece, parcel or tract of land in the County of Buncombe, North Carolina, containing 31.57 acres, more or less, shown on a plat entitled "Seasons at Biltmore Lake, a Condominium" prepared by U.S. Surveyors, Inc., dated May 30, 2006, and recorded in the Public Registry for Buncombe County, North Carolina, in Plat Book \_\_\_\_ at Page \_\_\_\_\_, (the "Plat").

Being TMS Number 9617-17-01-9671

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

**EXHIBIT B: LEASE (IF APPLICABLE)**

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

**APPENDIX ONE  
TO  
PURCHASE AGREEMENT FOR**

**SEASONS AT BILTMORE LAKES, A CONDOMINIUM**

**(Disclosure Addendum)**

Buyer: \_\_\_\_\_

Unit #: \_\_\_\_\_

1. Sale of Other Units. Buyer understands and acknowledges that: (i) depending on market and other conditions and circumstances, including location, Seller may, prior to or after the Closing, raise or lower the price of units in the Condominium, some of which may be similar to the Unit, and offer other terms that vary in amount or type to other buyers; (ii) Seller has made no price protection or similar commitment to Buyer regarding the Unit or any other unit, and shall not have any obligation or liability to Buyer in the event any such price changes directly or indirectly affect the value of the Unit; (iii) Seller may choose to market the other units in the Condominium in bulk, through an auction format, a lottery format, or in a variety of other ways; and (iv) Buyer's obligation under this Agreement shall not be affected by, and Buyer shall have no right to object to, any of the foregoing.

2. Views. Buyer understands and acknowledges that: (i) no representation or warranty is made by Seller or any of Seller's representatives with respect to the presence or continued existence of any view or scene from any portion of the Unit; and (ii) the particular view, if any, which the Unit currently enjoys may be impaired and may be obstructed by the construction of other improvements or facilities within or outside of the Condominium.

3. Models. Some interior decoration of the model complex/units, including decorator paint colors, wallpaper, some carpet, special wall textures, some cabinet tops, window treatments, some hard surface countertops, some hard surface floors, some mirrors and paneling, model furniture, art work, accessories, and terrace furniture, are generally not included in production units. If in doubt, please check with the sales representative.

4. Economic Potential. Buyer acknowledges that neither Seller nor any of its members, employees, agents or representatives has made any representation concerning potential for future profit, rental income potential, tax advantages, or investment potential of the Unit. Buyer hereby further acknowledges that it is entering into this Agreement based upon its independent assessment of the economic potential of the Unit and without reliance upon any representations by or on behalf of Seller with respect to such matters.

5. Construction.

(a) Seller reserves the right to have improvements to Units at the Property made on a continuing basis following the sale of the Unit. This continued construction may require the use of temporary access points for vehicular or pedestrian ingress and egress to the Condominium; Seller shall have the right to provide such alternative access points. Buyer understands that construction activity (including but not limited to transportation of labor, material and equipment) will continue in the Condominium and may cause varying degrees of increased traffic, dust, noise and other inconveniences to Condominium owners, residents and guests. Some common areas, including the swimming pool/spa and some landscaping may be completed after Buyer has closed on the purchase of its Unit.

(b) Seller reserves the right to make changes to the common areas of the Condominium and the landscaping of the Condominium so long as such changes do not materially change the overall design of the Condominium and do not result in the elimination of any material common area facility.

INITIALS OF BUYER(S) #1 \_\_\_\_\_ AND #2 \_\_\_\_\_

6. Utility Connections. Buyer understands that it is Buyer's responsibility to transfer all utilities into Buyer's name, make payment of any deposits required and arrange for utility service connections at or following the Closing. Unavailability of such utilities by reason of Buyer's failure to make such deposits or arrange for such service and/or unavailability of telephone services shall not delay Closing, nor subject Seller to any liability.

7. Wood Building Materials. Wood and wood products contain moisture when installed and will dry, shrink and settle after installation. As a result, nails may "pop" from drywall locations, baseboards may move slightly and exposed wood may striate or crack. Doors made of wood may shrink, swell or warp. Swelling may affect the way a door fits in an opening and it may cause sticking. In some instances paint and/or drywall seams may slightly crack.

8. Paint. Due to the large quantity of paint used in the Condominium, slight variations in paint shade may exist from unit to unit. Due to the properties of today's paints, paint may yellow somewhat with time, which is not a warranty item.

9. Fixtures. Buyer is aware and accepts that certain materials used for fixtures in the Unit (including but not limited to brass/chrome plumbing fixtures, bathroom accessories and light fixtures) may be subject to discoloration and/or corrosion over time, which is not a warranty item.

10. Cabinets and Stain Finished Woods. Buyer is aware and accepts that natural wood has considerable color variation due to its organic nature and mineral streaks may also be visible, even when stained. Grain pattern or texture may vary from consistent to completely irregular. Existence of such variation is not a warranty item.

11. Marble, Granite and Stone. Buyer is aware and accepts that (i) marble and granite are natural pieces of stone and veins and colors vary drastically from piece to piece and are all different; (ii) marble and granite have chips and shattering veins which look like scratches; (iii) the thickness of the joints between marble, granite or other materials against which they may be laid will vary and there will be irregularities in surface smoothness. Marble and other stone finishes may be dangerously slippery and Seller assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of marble and granite, and it is the Buyer's responsibility to properly maintain these materials. Marble, granite and other stone surfaces may scratch, chip or stain easily. In order to attenuate noise transmission, stone and tile floorings may be installed over substrates. Such substrates, may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone or tile flooring which may need to be repaired as part of normal Unit maintenance. Such situations are not warranty items.

12. Stucco, Precast and/or Concrete. Buyer is aware and accepts that it is impossible to avoid a certain amount of cracking in stucco and other cement-like materials. Cracks in stucco, precast, concrete and other cement like materials, including, but not limited to, floors, foundations and building surfaces, are to be expected due to normal settlement, curing, impacts and vibrations, hot and cold weather, general stress from movement and other conditions. Cracking is customary at the corners of windows and doors. Concrete floors may not be perfectly flat and some sloping and pooling are common. Such situations are not warranty items.

13. Sales Brochure, Collateral Material and Advertising. Photos or information (including square footage) illustrated or set forth in the sales office, or in any Condominium brochures, renderings and advertisements may not conform to actual plans and specifications and may be prepared and presented for dramatic or illustrative purposes only. Seller makes no representations regarding these materials.

14. Sound Insulation. Buyer understands and acknowledges that Seller has not made any written or oral representation or warranty concerning the sound insulation capabilities of the Unit and that in any multi-family dwelling, sound may be audible between units, particularly where the sound level of the source is sufficiently high and the background noise in an adjacent unit is low. Buyer hereby agrees to accept the Unit subject to sound impacts from adjacent units and to accept

responsibility for minimizing noise transmission from the Unit and adhering to any Association rules and regulations which are designed to minimize noise transmission.

15. Postal Delivery/Mail Boxes. Mail delivery will be provided at the location(s) designated by the Postal Service and other governing agencies.

16. Security. From time to time the Association may, but shall not be required, to provide measures or take actions which directly or indirectly are intended to improve safety at the Condominium; however, Buyer acknowledges and agrees that the Association is not a provider of security services and shall have no duty to provide security at the Condominium. It shall be the responsibility of Buyer to protect his or her person and property and all responsibility to provide such security shall be solely with Buyer. Neither Seller nor the Association shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken at the Condominium.

17. Severe Weather Conditions. Although each unit and the Condominium as a whole have been or will be built with good quality standard components and will be weather resistant in accordance with local standards, during severe weather conditions, leaks around sliding doors, windows and roof vents may occur. Such situations are not warranty items.

18. Title. The way you acquire title to the Unit may have a legal impact, including tax and estate planning consequences. No salesperson is authorized to advise you on how you should hold legal title.

19. Parking/Storage Areas. Parking at the Condominium shall be subject to rules and regulations adopted by the Association, compliance with which shall be required of Buyer and Buyer's guests and tenants.

20. Buyer Obligation to Investigate. Nothing contained herein is intended to be a complete disclosure of all facts which Buyer may wish to consider in buying a Unit at the Condominium. Buyer is obligated to conduct his/her own full investigation of all facts relevant to deciding where to buy and when.

21. Interpretation. Capitalized terms not defined herein shall have the meaning set forth in the Purchase Agreement and Receipt executed by the parties concurrent herewith. THIS DISCLOSURE CONTAINS INFORMATION WHICH HAS A LEGAL IMPACT ON THE PURCHASE OF THE PROPERTY.

ACKNOWLEDGEMENT: ACCEPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_.

BUYER

SELLER

**MONTECITO NORTHVIEW, LLC**, a  
Delaware limited liability company

\_\_\_\_\_  
Buyer Date

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

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

Title: Vice President

\_\_\_\_\_  
Buyer Date