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Attorneys for Debtor

IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH

In re:	)	Bankruptcy No. 15-25181 KRA
	)	Chapter 11
Gloyd W. Green,	)	
	)	[Filed Electronically]
Debtor.	)	
	)	
	)	
	)	MOTION FOR
	)	APPROVAL OF SALE OF
	)	CABIN AND BIDDING
	)	PROCEDURES
	)	

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Gloyd W. Green (the “**Debtor**”), by and through counsel and pursuant to the Debtor’s Amended Plan of Reorganization dated February 24, 2016 (the “**Plan**”), ¶5.1.2 [Docket no. 120, page 34 of 51], as well as the provisions of 11 U.S.C. §363 and Bankruptcy Rules 2002 and 6004, hereby moves the Court (the “**Motion**”) for entry of an order approving the sale of the Debtor’s cabin property (described more particularly below) free and clear of all liens, encumbrances, and interests, with all such liens and interests to attach to the proceeds of sale, and approving procedures for bidding and

auction. Terms of the sale are summarized below and set forth in full in a Real Estate Purchase Contract dated August 23, 2016, a copy of which (with all addenda) is attached hereto as **Exhibit A** (the “REPC”).

### 1. Summary of Terms of Proposed Sale

Subject to the receipt of higher and better offers, the Debtor proposes to sell a cabin property located at 5132 North Larkspur Road, Midway, UT 84049 (the “Property”) to Terry West (the “Buyer”) for a purchase price of \$414,000.00 (the “Purchase Price”) upon the terms and conditions set forth in the REPC. In summary, the pertinent terms and conditions are as follows:

1. Buyer will pay the Purchase Price in cash at closing, with the option of credit bidding a portion of the Purchase Price through an offset of the Buyer’s Class A-6 Secured Claim in accordance with 11 U.S.C. §363(k).
2. Seller will purchase a one-year home warranty plan for Buyer’s benefit at a cost not to exceed \$530.00.
3. Title will be conveyed at closing by warranty deed.
4. The Property will be sold in an “as is, where is” condition, without warranty as to the condition of the Property or the suitability for the Buyers.
5. Seller will provide Buyer with a standard form owner’s insurance policy at closing, in form and content similar to the Commitment attached hereto as **Exhibit B**.

The Debtor requests authority to pay the following at closing:

6. All applicable commissions, closing costs and title fees associated with the transaction and customary in the industry (as illustrated in the preliminary settlement statement attached hereto as **Exhibit C**), including a realtor's commission to Kathy Collings and the firm of Berkshire Hathaway Home Services Utah (the "**Realtors**") in the amount of 6% of the selling price as set forth in the listing agreement attached hereto as **Exhibit D**;
7. All accrued and pro-rated real estate taxes and other assessments which may be owed as of the date of closing, which are also set forth in **Exhibit C**; and
8. All amounts needed for satisfaction in full of the Class A-6 Secured Claim in the event the Buyer does not credit bid the Class A-6 Secured Claim.

## **2. Proposed Bidding Procedures**

The Debtor asks the Court to approve the following bidding procedures for the sale of the Property, which bidding procedures will be included by the Debtor in the notice of hearing on the Motion:

1. All competing offers or bids for the Property must be in writing and must be received by the Debtor's counsel, at the address set forth at the top of page one of this Motion, no later than **5:00 p.m. on September 29, 2016**.
2. Along with the written offer or bid, each bidder must also submit to Debtor's counsel by the same deadline a \$2,000.00 deposit that will be applied to the purchase price if the bid is successful and will be returned to the bidder if the bid

is not successful, together with written evidence of a commitment for financing or other evidence of ability to consummate the proposed purchase of the Property.

3. A “**Qualified Bidder**” shall be any bidder who submits the foregoing items to Debtor’s counsel on or before the foregoing deadline, and any competing offer or bid so submitted shall be a “**Qualified Bid.**”
4. In the event that a Qualified Bid is not received by Debtor’s counsel, Debtor will ask the Court to approve the sale to the Buyer on the terms set forth in the REPC at the hearing on the Motion, which is scheduled for **October 4, 2016**, commencing at the hour of **9:30 a.m.**
5. In the event that a Qualified Bid is received by Debtor’s counsel, Debtor’s counsel shall conduct an auction (the “**Auction**”) of the Property. The Auction shall take place at **10:00 a.m.** on **October 3, 2016**, in the lobby near the ground floor elevators on the south end of the Bankruptcy Court at 350 South Main Street, Salt Lake City, Utah. The auction will be limited to the Buyer and all Qualified Bidders.
6. Debtor’s counsel will conduct the Auction by announcing the highest and best Qualified Bid. The Auction will then be opened to competing bids. Debtor’s counsel will entertain competing bids for the Property in such successive rounds as Debtor’s counsel determines in his sole discretion to be appropriate so as to obtain the highest and best bid for the Property. Debtor’s counsel may also set opening bid amounts in each round of bidding as he determines appropriate.

7. At the Auction, the Debtor and his counsel will review each bid on the basis of financial and contractual terms and the factors relevant to the sale process, including the speed and certainty of closing the sale, and then identify the person submitting the highest and best offer for the Property (the “**Successful Bidder**” and the “**Successful Bid**”).
8. Debtor will present the Successful Bid to the Court for approval at the hearing on the Motion, which will be conducted at **9:30 a.m.** on **October 4, 2016**.

### **3. Memorandum of Law**

1. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§1334 and 157.
2. The Motion is a core proceeding within the meaning of 28 U.S.C. §§157(b)(2)(A), (N) and (O).
3. Venue is proper under 28 U.S.C. §§1408 and 1409.
4. The statutory predicate for the relief sought in the Motion is set forth in 11 U.S.C. §§363(b), (f) and (k).

### **4. Background**

1. The Debtor filed his voluntary petition for relief under Chapter 11 of the Bankruptcy Code on June 3, 2015.
2. The Plan was confirmed by order entered April 19, 2016 [Docket no. 120].
3. The Debtor entered into a listing agreement with the Realtors on June 26, 2016, and the Realtors have actively and diligently marketed the Property since then.

4. The Buyer is married to the Debtor's sister.
5. In the Debtor's business judgment, and subject to the receipt of higher and better offers in accordance with the bidding procedures set forth in the Motion, the Purchase Price, on the terms and conditions in the REPC, is fair and reasonable and represents the fair market value of the Property.
6. In the Debtor's business judgment, the sale of the Property for the Purchase Price or for a higher and better price in the event of an Auction, is in the best interests of the Debtor and the creditors.

#### **5. Relief Requested**

1. The Debtor requests entry of an order authorizing the Debtor to sell the Property to the Buyer, or to a Qualified Bidder in the event of an Auction, free and clear of all liens, claims, encumbrances, and interests, with all such liens and interests attaching to the proceeds of sale, either for the Purchase Price on the terms and conditions set forth in the REPC, or for the amount of the Successful Bid upon the terms and conditions accepted by the Debtor at the Auction.
2. The Debtor also requests authority to pay, at closing, the commissions, costs, fees, real property taxes and assessments, and the amount owing to the Buyer on the Class A-6 Secured Claim, all as described in section 1 above (Summary of Terms of Proposed Sale). The payoff amount for the Class A-6 Secured Claim, and the estimated closing costs, are set forth in the preliminary settlement statement attached hereto as **Exhibit C**. As shown in **Exhibit C**, cash to Sellers

is estimated to be \$319,804.00 (rounded to the nearest dollar), all of which will be deposited into the Plan Payment Account and held there pending resolution of the potential claims of the Estate Representative against the Class A-3 Secured Creditor, in accordance with the provisions of the Plan.

3. The Debtor further moves the Court to approve the auction procedures set forth herein and to authorize the Debtor to sell the Property to the Buyer on the terms and conditions set forth in the REPC or, in the event that a Qualified Bid is submitted, to the Successful Bidder.
4. Finally, the Debtor requests the Court to waive the fourteen day stay otherwise imposed by Bankruptcy Rule 6004(h), based on the need and desire of the Buyer to secure the Property and provide insurance for it.

#### **6. Basis for Relief Requested**

1. Pursuant to 11 U.S.C. §§363(b) and 1107, and subject to the requirement of prior notice and a hearing, the Debtor is empowered to sell property of the estate.
2. The proceeds of sale will be used to satisfy the Class A-6 Secured Claim and all accrued but unpaid property taxes and assessments. All remaining proceeds of sale will be applied against the Class A-3 Secured Claim except to the extent that any potential claim of the estate is successfully asserted by the Estate Representative.

3. Section 363(f) of the Code authorizes the sale of the Property free and clear of interests of entities other than the bankruptcy estate (such as liens and encumbrances) only if (1) applicable nonbankruptcy law permits sale of such property free and clear of such interest; (2) such entity consents; (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property; (4) such interest is in bona fide dispute; or (5) such entity could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest. In this case, condition (2) is met with respect to the interest of the Class A-3 Secured Claim because the Plan specifies that net proceeds of sale are to be held pending determination of the Estate Representative's claims. The holder of the Class A-3 claim voted in favor of the Plan, thereby consenting to the treatment set forth herein.
4. Pursuant to Bankruptcy Rule 6004(h), an order approving the sale of property of the estate is stayed for fourteen days unless otherwise ordered by the court. Cause exists, here, to order otherwise. The Property is unoccupied and the Buyer or Successful Bidder will be anxious to secure it as soon as possible after approval of the sale. In addition, as stated in the 1999 Advisory Committee Note to Rule 6004, the purpose of Rule 6004(h) is to "provide sufficient time for a party to request a stay pending appeal of an order authorizing the use, sale or lease of property before the order is implemented." Accordingly, if no one objects to the Motion, then the stay would serve no purpose and should be waived.



### **5. Prayer for Relief**

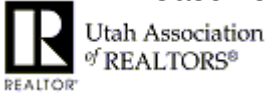
ACCORDINGLY, based on the foregoing, the Debtor requests entry of a order providing as follows:

1. Granting the Motion;
2. Authorizing the Debtor to sell the Property free and clear of all liens, claims, encumbrances, and interests, with all such to attach to proceeds of sale, to the Buyer for the Purchase Price and on the terms and conditions set forth in the REPC or, if a Qualified Bid is submitted, then to the Successful Bidder for the amount of the Successful Bid and on the terms and conditions accepted by the Debtor at the Auction;
3. Authorizing the Debtor to pay at closing (a) all applicable commissions and closing costs and title fees associated with the transaction and customary in the industry (including a commission in the amount of 6% to the Realtors) (b) all accrued and pro rated property taxes and assessments; and (c) all amounts needed to satisfy in full the Class A-6 Secured Claim; and retain all remaining proceeds of sale in the Plan Payment Account pending further order of the Court;
4. Authorizing the bidding procedures and the Auction as outlined above, and authorizing the Debtor to sell the Property to the Successful Bidder for the amount of the Successful Bid in the event of an Auction;

5. Waiving the fourteen-day stay otherwise imposed by Bankruptcy Rule 6004(h) so that the sale can be closed immediately after the order authorizing the sale has been entered; and
6. Granting such other and further relief as may be appropriate.

DATED this 2<sup>nd</sup> day of September 2016.

/s/ Chris L. Schmutz  
Chris L. Schmutz, for  
SCHMUTZ & MOHLMAN, LLC  
Attorneys for Debtor



# Document Page 11 of 29 REAL ESTATE PURCHASE CONTRACT



This is a legally binding Real Estate Purchase Contract ("REPC"). Utah law requires real estate licensees to use this form. Buyer and Seller, however, may agree to alter or delete its provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

## OFFER TO PURCHASE AND EARNEST MONEY DEPOSIT

On this 23rd day of August, 2016 ("Offer Reference Date") Terry West ("Buyer") offers to purchase from Gloyd Green ("Seller") the Property described below and  delivers to the Buyer's Brokerage with this offer, or  agrees to deliver no later than four (4) calendar days after Acceptance (as defined in Section 23), Earnest Money in the amount of \$5000.00 in the form of Personal Ck To Artisan Title. After Acceptance of the REPC by Buyer and Seller, and receipt of the Earnest Money by the Brokerage, the Brokerage shall have four (4) calendar days in which to deposit the Earnest Money into the Brokerage Real Estate Trust Account.

Buyer's Brokerage: Berkshire Hathaway HomeServices Utah - Salt Lake Phone: \_\_\_\_\_  
Received by: \_\_\_\_\_ on \_\_\_\_\_ (Date)  
(Signature above acknowledges receipt of Earnest Money)

## OTHER PROVISIONS

**1. PROPERTY:** 5132 N LARKSPUR RD, Midway, Wasatch County, UT 84049 also described as: \_\_\_\_\_ City of Midway, County of Wasatch, State of Utah, Zip 84049 (the "Property"). Any reference below to the term "Property" shall include the Property described above, together with the Included Items and water rights/water shares, if any, referenced in Sections 1.1, 1.2 and 1.4.

**1.1 Included Items.** Unless excluded herein, this sale includes the following items if presently owned and in place on the Property: plumbing, heating, air conditioning fixtures and equipment; ovens, ranges and hoods; cook tops; dishwashers; ceiling fans; water heaters; light fixtures and bulbs; bathroom fixtures and bathroom mirrors; curtains, draperies, rods, window blinds and shutters; window and door screens; storm doors and windows; awnings; satellite dishes; affixed carpets; automatic garage door openers and accompanying transmitters; security system; fencing and any landscaping.

**1.2 Other Included Items.** The following items that are presently owned and in place on the Property have been left for the convenience of the parties and are also included in this sale (check applicable box):  washers  dryers  refrigerators  water softeners  microwave ovens  other (specify) See Remarks; Gazebo; Range; Refrigerator; Window Coverings; Wood Stove The above checked items shall be conveyed to Buyer under separate bill of sale with warranties as to title.

**1.3 Excluded Items.** The following items are excluded from this sale: \_\_\_\_\_

**1.4 Water Service.** The Purchase Price for the Property shall include all water rights/water shares, if any, that are the legal source for Seller's current culinary water service and irrigation water service, if any, to the Property. The water rights/water shares will be conveyed or otherwise transferred to Buyer at Closing by applicable deed or legal instruments. The following water rights/water shares, if applicable, are specifically excluded from this sale: \_\_\_\_\_

**2. PURCHASE PRICE.** The purchase price for the Property is \$414000.00. Except as provided in this Section, the Purchase Price shall be paid as provided in Sections 2(a) through 2(d) below. Any amounts shown in 2(b) and 2(d) may be adjusted as deemed necessary by Buyer and the Lender.

\$5000.00 (a) **Earnest Money Deposit.** Under certain conditions described in the REPC, this deposit may become totally non refundable.

\$0 (b) **New Loan.** Buyer may apply for mortgage loan financing (the "Loan") on terms acceptable to Buyer: If an FHA/VA loan applies, see attached FHA/VA Loan Addendum.

\$0 (c) **Seller Financing** (see attached Seller Financing Addendum)

\$409000.00 (d) **Balance of Purchase Price in Cash at Settlement**

\$414000.00 **PURCHASE PRICE. Total of lines (a) through (d)**

## 3. SETTLEMENT AND CLOSING.

**3.1 Settlement.** Settlement shall take place no later than the Settlement Deadline referenced in Section 24(d), or as otherwise mutually agreed by Buyer and Seller in writing. "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

Page 1 of 6 Buyer's Initials TW Date 8/24/2016 Seller's Initials GTW Date \_\_\_\_\_

by the REPC, by the Lender, by the title insurance and escrow/closing offices, by written escrow instructions (including any split closing instructions, if applicable), or by applicable law; (b) any monies required to be paid by Buyer or Seller under these documents (except for the proceeds of any new loan) have been delivered by Buyer or Seller to the other party, or to the escrow/closing office, in the form of cash, wire transfer, cashier's check, or other form acceptable to the escrow/closing office.

**3.2 Prorations.** All prorations, including, but not limited to, homeowner's association dues, property taxes for the current year, rents, and interest on assumed obligations, if any, shall be made as of the Settlement Deadline referenced in Section 24(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The provisions of this Section 3.2 shall survive Closing.

**3.3 Special Assessments.** Any assessments for capital improvements as approved by the HOA (pursuant to HOA governing documents) or as assessed by a municipality or special improvement district, prior to the Settlement Deadline shall be paid for by:  Seller  Buyer  Split Equally Between Buyer and Seller  Other (explain) \_\_\_\_\_ . The provisions of this Section 3.3 shall survive Closing.

**3.4 Fees/Costs/Payment Obligations.** Unless otherwise agreed to in writing, 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. Tenant deposits (including, but not limited to, security deposits, cleaning deposits and prepaid rents) shall be paid or credited by Seller to Buyer at Settlement. Buyer agrees to be responsible for homeowners' association and private and public utility service transfer fees, if any, and all utilities and other services provided to the Property after the Settlement Deadline. The escrow/closing office is authorized and directed to withhold from Seller's proceeds at Closing, sufficient funds to pay off on Seller's behalf all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. The provisions of this Section 3.4 shall survive Closing.

**3.5 Closing.** For purposes of the REPC, "Closing" means that: (a) Settlement has been completed; (b) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (c) the applicable Closing documents have been recorded in the office of the county recorder. The actions described in 3.5 (b) and (c) shall be completed within four calendar days after Settlement.

**4. POSSESSION.** Seller shall deliver physical possession of the Property to Buyer as follows:  Upon Closing;  \_\_\_ Hours after Closing;  \_\_\_ Calendar Days after Closing. Any contracted rental of the Property prior to or after Closing, between Buyer and Seller, shall be by separate written agreement. Seller and Buyer shall each be responsible for any insurance coverage each party deems necessary for the Property including any personal property and belongings. Seller agrees to deliver the Property to Buyer in broom-clean condition and free of debris and personal belongings. Any Seller or tenant moving-related damage to the Property shall be repaired at Seller's expense. The provisions of this Section 4 shall survive Closing.

**5. CONFIRMATION OF AGENCY DISCLOSURE.** Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the REPC: Seller's Agent Kathy Collings, represents  Seller  both Buyer and Seller as a Limited Agent; Seller's Brokerage Berkshire Hathaway HomeServices Utah - Salt Lake, represents  Seller  both Buyer and Seller as a Limited Agent; Buyer's Agent Kathy Collings, represents  Buyer  both Buyer and Seller as a Limited Agent; Buyer's Brokerage Berkshire Hathaway HomeServices Utah - Salt Lake, represents  Buyer  both Buyer and Seller as a Limited Agent.

**6. TITLE & TITLE INSURANCE.**

**6.1 Title to Property.** Seller represents that Seller has fee title to the Property and will convey marketable title to the Property to Buyer at Closing by general warranty deed. Buyer does agree to accept title to the Property subject to the contents of the Commitment for Title Insurance (the "Commitment") provided by Seller under Section 7, and as reviewed and approved by Buyer under Section 8. Buyer also agrees to accept title to the Property subject to any existing leases, rental and property management agreements affecting the Property not expiring prior to Closing which were provided to Buyer pursuant to Section 7(e). The provisions of this Section 6.1 shall survive Closing.

**6.2 Title Insurance.** At Settlement, Seller agrees to pay for and cause to be issued in favor of Buyer, through the title insurance agency that issued the Commitment (the "Issuing Agent"), the most current version of the *ALTA Homeowner's Policy of Title Insurance* (the "Homeowner's Policy"). If the Homeowner's Policy is not available through the Issuing Agent, Buyer and Seller further agree as follows: (a) Seller agrees to pay for the Homeowner's Policy if available through any other title insurance agency selected by Buyer; (b) if the Homeowner's Policy is not available either through the Issuing Agent or any other title insurance agency, then Seller agrees to pay for, and Buyer agrees to accept, the most current available version of an *ALTA Owner's Policy of Title Insurance* ("Standard Coverage Owner's Policy") available through the Issuing Agent.

**7. SELLER DISCLOSURES.** No later than the Seller Disclosure Deadline referenced in Section 24(a), Seller shall provide to Buyer the following documents in hard copy or electronic format which are collectively referred to as the "Seller Disclosures":

- (a) a written Seller property condition disclosure for the Property, completed, signed and dated by Seller as provided in Section 10.3;

- (b) a Commitment for Title Insurance as referenced in Section 6;
- (c) a copy of any restrictive covenants (CC&R's), rules and regulations affecting the Property;
- (d) a copy of the most recent minutes, budget and financial statement for the homeowners' association, if any;
- (e) a copy of any lease, rental, and property management agreements affecting the Property not expiring prior to Closing;
- (f) evidence of any water rights and/or water shares referenced in Section 1.4;
- (g) written notice of any claims and/or conditions known to Seller relating to environmental problems and building or zoning code violations; and
- (h) Other (specify) \_\_\_\_\_

**8. BUYER'S CONDITIONS OF PURCHASE.**

**8.1 DUE DILIGENCE CONDITION.**

Buyer's obligation to purchase the Property:  IS  IS NOT conditioned upon Buyer's Due Diligence as defined in this Section 8.1(a) below. This condition is referred to as the "Due Diligence Condition." If checked in the affirmative, Sections 8.1(a) through 8.1(c) apply; otherwise they do not.

**(a) Due Diligence Items.** Buyer's Due Diligence shall consist of Buyer's review and approval of the contents of the Seller Disclosures referenced in Section 7, and any other tests, evaluations and verifications of the Property deemed necessary or appropriate by Buyer, such as: the physical condition of the Property; the existence of any hazardous substances, environmental issues or geologic conditions; the square footage or acreage of the land and/or improvements; the condition of the roof, walls, and foundation; the condition of the plumbing, electrical, mechanical, heating and air conditioning systems and fixtures; the condition of all appliances; the costs and availability of homeowners' insurance and flood insurance, if applicable; water source, availability and quality; the location of property lines; regulatory use restrictions or violations; fees for services such as HOA dues, municipal services, and utility costs; convicted sex offenders residing in proximity to the Property; and any other matters deemed material to Buyer in making a decision to purchase the Property. Unless otherwise provided in the REPC, all of Buyer's Due Diligence shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with Buyer's Due Diligence. Buyer agrees to pay for any damage to the Property resulting from any such inspections or tests during the Due Diligence.

**(b) Buyer's Right to Cancel or Resolve Objections.** If Buyer determines, in Buyer's sole discretion, that the results of the Due Diligence are unacceptable, Buyer may either: (i) no later than the Due Diligence Deadline referenced in Section 24(b), cancel the REPC by providing written notice to Seller, whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller; or (ii) no later than the Due Diligence Deadline referenced in Section 24(b), resolve in writing with Seller any objections Buyer has arising from Buyer's Due Diligence.

**(c) Failure to Cancel or Resolve Objections.** If Buyer fails to cancel the REPC or fails to resolve in writing any objections Buyer has arising from Buyer's Due Diligence, as provided in Section 8.1(b), Buyer shall be deemed to have waived the Due Diligence Condition.

**8.2 APPRAISAL CONDITION.** Buyer's obligation to purchase the Property:  IS  IS NOT conditioned upon the Property appraising for not less than the Purchase Price. This condition is referred to as the "Appraisal Condition." If checked in the affirmative, Sections 8.2(a) and 8.2(b) apply; otherwise they do not.

**(a) Buyer's Right to Cancel.** If after completion of an appraisal by a licensed appraiser, Buyer receives written notice from the Lender or the appraiser that the Property has appraised for less than the Purchase Price (a "Notice of Appraised Value"), Buyer may cancel the REPC by providing written notice to Seller (with a copy of the Notice of Appraised Value) no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

**(b) Failure to Cancel.** If the REPC is not cancelled as provided in this section 8.2, Buyer shall be deemed to have waived the Appraisal Condition.

**8.3 FINANCING CONDITION.** Buyer's obligation to purchase the property:  IS  IS NOT conditioned upon Buyer obtaining the Loan referenced in Section 2(b). This condition is referred to as the "Financing Condition." If checked in the affirmative, Sections 8.3(a) and 8.3(b) apply; otherwise they do not. If the Financing Condition applies, Buyer agrees to work diligently and in good faith to obtain the Loan.

**(a) Buyer's Right to Cancel Before the Financing & Appraisal Deadline.** If Buyer, in Buyer's sole discretion, is not satisfied with the terms and conditions of the Loan, Buyer may cancel the REPC by providing written notice to Seller no later than the Financing & Appraisal Deadline referenced in Section 24(c); whereupon the Earnest Money Deposit shall be released to Buyer without the requirement of further written authorization from Seller.

**(b) Buyer's Right to Cancel After the Financing & Appraisal Deadline.** If after expiration of the Financing & Appraisal Deadline referenced in Section 24(c), Buyer fails to obtain the Loan, meaning that the proceeds of the Loan have not been delivered by the Lender to Seller or to the escrow/closing office as required under Section 3.5 of the REPC, then Buyer or Seller may cancel the REPC by providing written notice to the other party; whereupon the Earnest Money Deposit, or Deposits, if applicable (see Section 8.4 below), shall be released to Seller without the requirement of further written authorization from Buyer. In the event of such cancellation, Seller agrees to accept as Seller's exclusive remedy, the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages. Buyer and Seller agree that liquidated damages would be difficult and impractical to calculate, and the Earnest Money Deposit, or Deposits, if applicable, is a fair and reasonable estimate of Seller's damages in the event Buyer fails to obtain the Loan.

**8.4 ADDITIONAL EARNEST MONEY DEPOSIT.** If the REPC has not been previously canceled by Buyer as provided in Sections 8.1, 8.2 or 8.3(a), then no later than the Due Diligence Deadline referenced in Section 24(b), or the Financing & Appraisal Deadline referenced in Section 24(c), whichever is later, Buyer:  WILL  WILL NOT deliver to the Buyer's Brokerage, an Additional Earnest Money Deposit in the amount of \$\_\_\_\_\_. The Earnest Money Deposit and the Additional Earnest Money Deposit, if applicable, are sometimes referred to herein as the "Deposits". The Earnest Money Deposit, or Deposits, if applicable, shall be credited toward the Purchase Price at Closing.

**9. ADDENDA.** There  ARE  ARE NOT addenda to the REPC containing additional terms. If there are, the terms of the following addenda are incorporated into the REPC by this reference:  Addendum No. 1  Seller Financing Addendum  FHA/VA Loan Addendum  Lead-Based Paint Disclosure & Acknowledgement (in some transactions this disclosure is required by law)  Other (specify) \_\_\_\_\_

**10. HOME WARRANTY PLAN / AS-IS CONDITION OF PROPERTY.**

**10.1 Home Warranty Plan.** A one-year Home Warranty Plan  WILL  WILL NOT be included in this transaction. If included, the Home Warranty Plan shall be ordered by  Buyer  Seller and shall be issued by a company selected by  Buyer  Seller. The cost of the Home Warranty Plan shall not exceed \$530.00 and shall be paid for at Settlement by  Buyer  Seller.

**10.2 Condition of Property/Buyer Acknowledgements.** Buyer acknowledges and agrees that in reference to the physical condition of the Property: (a) Buyer is purchasing the Property in its "As-Is" condition without expressed or implied warranties of any kind; (b) Buyer shall have, during Buyer's Due Diligence as referenced in Section 8.1, an opportunity to completely inspect and evaluate the condition of the Property; and (c) if based on the Buyer's Due Diligence, Buyer elects to proceed with the purchase of the Property, Buyer is relying wholly on Buyer's own judgment and that of any contractors or inspectors engaged by Buyer to review, evaluate and inspect the Property.

**10.3 Condition of Property/Seller Acknowledgements.** Seller acknowledges and agrees that in reference to the physical condition of the Property, Seller agrees to: (a) disclose in writing to Buyer defects in the Property known to Seller that materially affect the value of the Property that cannot be discovered by a reasonable inspection by an ordinary prudent Buyer; (b) carefully review, complete, and provide to Buyer a written Seller property condition disclosure as stated in section 7(a); and (c) deliver the Property to Buyer in substantially the same general condition as it was on the date of Acceptance, as defined in Section 23, ordinary wear and tear excepted. The provisions of Sections 10.2 and 10.3 shall survive Closing.

**11. FINAL PRE-SETTLEMENT WALK-THROUGH INSPECTION.**

**11.1 Walk-Through Inspection.** No earlier than seven (7) calendar days prior to Settlement, and upon reasonable notice and at a reasonable time, Buyer may conduct a final pre-Settlement walk-through inspection of the Property to determine only that the Property is "as represented," meaning that the items referenced in Sections 1.1, 1.2 and 8.1(b)(ii) ("the items") are respectively present, repaired or corrected as agreed. The failure to conduct a walk-through inspection or to claim that an item is not as represented shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented. If the items are not as represented, Seller agrees to cause all applicable items to be corrected, repaired or replaced (the "Work") prior to the Settlement Deadline referenced in Section 24(d).

**11.2 Escrow to Complete the Work.** If, as of Settlement, the Work has not been completed, then Buyer and Seller agree to withhold in escrow at Settlement a reasonable amount agreed to by Seller, Buyer (and Lender, if applicable), sufficient to pay for completion of the Work. If the Work is not completed within thirty (30) calendar days after the Settlement Deadline, the amount so escrowed may, subject to Lender's approval, be released to Buyer as liquidated damages for failure to complete the Work. The provisions of this Section 11.2 shall survive Closing.

**12. CHANGES DURING TRANSACTION.** Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any leases, rental or property management agreements shall be made; (b) no new lease, rental or property management agreements shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; (d) no further financial encumbrances to the Property shall be made, and (e) no changes in the legal title to the Property shall be made.

**13. AUTHORITY OF SIGNERS.** If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company or other entity, the person signing the REPC on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

**14. COMPLETE CONTRACT.** The REPC together with its addenda, any attached exhibits, and Seller Disclosures (collectively referred to as the "REPC"), constitutes the entire contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties whether verbal or otherwise. The REPC cannot be changed except by written agreement of the parties.

**15. MEDIATION.** Any dispute relating to the REPC arising prior to or after Closing:  SHALL  MAY AT THE OPTION OF THE PARTIES first be submitted to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions on the parties to the dispute.

Page 4 of 6 Buyer's Initials MS Date 8/23/2016 Seller's Initials DS Date 8/23/2016

must agree before any settlement is binding. The parties will jointly appoint an acceptable mediator and share equally in the cost of such mediation. If mediation fails, the other procedures and remedies available under the REPC shall apply. Nothing in this Section 15 prohibits any party from seeking emergency legal or equitable relief, pending mediation. The provisions of this Section 15 shall survive Closing.

**16. DEFAULT.**

**16.1 Buyer Default.** If Buyer defaults, Seller may elect one of the following remedies: (a) cancel the REPC and retain the Earnest Money Deposit, or Deposits, if applicable, as liquidated damages; (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Buyer to specifically enforce the REPC; or (c) return the Earnest Money Deposit, or Deposits, if applicable, to Buyer and pursue any other remedies available at law.

**16.2 Seller Default.** If Seller defaults, Buyer may elect one of the following remedies: (a) cancel the REPC, and in addition to the return of the Earnest Money Deposit, or Deposits, if applicable, Buyer may elect to accept from Seller, as liquidated damages, a sum equal to the Earnest Money Deposit, or Deposits, if applicable; or (b) maintain the Earnest Money Deposit, or Deposits, if applicable, in trust and sue Seller to specifically enforce the REPC; or (c) accept a return of the Earnest Money Deposit, or Deposits, if applicable, and pursue any other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

**17. ATTORNEY FEES AND COSTS/GOVERNING LAW.** In the event of litigation or binding arbitration to enforce the REPC, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 15. This contract shall be governed by and construed in accordance with the laws of the State of Utah. The provisions of this Section 17 shall survive Closing.

**18. NOTICES.** Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.

**19. NO ASSIGNMENT.** The REPC and the rights and obligations of Buyer hereunder, are personal to Buyer. The REPC may not be assigned by Buyer without the prior written consent of Seller. Provided, however, the transfer of Buyer's interest in the REPC to any business entity in which Buyer holds a legal interest, including, but not limited to, a family partnership, family trust, limited liability company, partnership, or corporation (collectively referred to as a "Permissible Transfer"), shall not be treated as an assignment by Buyer that requires Seller's prior written consent. Furthermore, the inclusion of "and/or assigns" or similar language on the line identifying Buyer on the first page of the REPC shall constitute Seller's written consent only to a Permissible Transfer.

**20. INSURANCE & RISK OF LOSS.**

**20.1 Insurance Coverage.** As of Closing, Buyer shall be responsible to obtain casualty and liability insurance coverage on the Property in amounts acceptable to Buyer and Buyer's Lender, if applicable.

**20.2 Risk of Loss.** If prior to Closing, any part of the Property is damaged or destroyed by fire, vandalism, flood, earthquake, or act of God, the risk of such loss or damage shall be borne by Seller; provided however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the Purchase Price referenced in Section 2, either Seller or Buyer may elect to cancel the REPC by providing written notice to the other party, in which instance the Earnest Money Deposit, or Deposits, if applicable, shall be returned to Buyer.

**21. TIME IS OF THE ESSENCE.** Time is of the essence regarding the dates set forth in the REPC. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in the REPC: (a) performance under each Section of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date; and (b) the term "days" and "calendar days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (e.g. Acceptance). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to the REPC, except as otherwise agreed to in writing by such non-party.

**22. ELECTRONIC TRANSMISSION AND COUNTERPARTS.** Electronic transmission (including email and fax) of a signed copy of the REPC, any addenda and counteroffers, and the retransmission of any signed electronic transmission shall be the same as delivery of an original. The REPC and any addenda and counteroffers may be executed in counterparts.

**23. ACCEPTANCE.** "Acceptance" occurs only when all of the following have occurred: (a) Seller or Buyer has signed the offer or counteroffer where noted to indicate acceptance; and (b) Seller or Buyer or their agent has communicated to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

- (a) Seller Disclosure Deadline August 30, 2016 (Date)
- (b) Due Diligence Deadline n/a (Date)
- (c) Financing & Appraisal Deadline n/a (Date)
- (d) Settlement Deadline October 27, 2016 (Date)

**25. OFFER AND TIME FOR ACCEPTANCE.** Buyer offers to purchase the Property on the above terms and conditions. If Seller does not accept this offer by: 5 : 00 [ ] AM [X] PM Mountain Time on August 24, 2016 (Date), this offer shall lapse; and the Brokerage shall return any Earnest Money Deposit to Buyer.

DocuSigned by:  
Terry West 8/24/2016

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

Terry West \_\_\_\_\_  
 (Buyer's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

\_\_\_\_\_  
 (Buyer's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (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 ADDENDUM NO. \_\_\_\_\_

**REJECTION:** Seller rejects the foregoing offer.

DocuSigned by:  
Gloyd Green 8/23/2016

\_\_\_\_\_  
 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)

Gloyd Green \_\_\_\_\_  
 (Seller's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

\_\_\_\_\_  
 (Seller's Names) (PLEASE PRINT) (Notice Address) (Zip Code) (Phone)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 27, 2008. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.





TO  
REAL ESTATE PURCHASE CONTRACT

THIS IS AN  ADDENDUM  COUNTEROFFER to that REAL ESTATE PURCHASE CONTRACT (the "REPC") with an Offer Reference Date of 23rd day of August, 2016 including all prior addenda and counteroffers, between Terry West as Buyer, and Gloyd Green as Seller, regarding the Property located at 5132 N LARKSPUR RD, Midway, Wasatch County, UT 84049. The following terms are hereby incorporated as part of the REPC:

.1. Buyer acknowledges the sale is subject to bankruptcy court approval.

BUYER AND SELLER AGREE THAT THE CONTRACT DEADLINES REFERENCED IN SECTION 24 OF THE REPC (CHECK APPLICABLE BOX):  REMAIN UNCHANGED  ARE CHANGED AS FOLLOWS: \_\_\_\_\_

To the extent the terms of this ADDENDUM modify or conflict with any provisions of the REPC, including all prior addenda and counteroffers, these terms shall control. All other terms of the REPC, including all prior addenda and counteroffers, not modified by this ADDENDUM shall remain the same.  Seller  Buyer shall have until 5 : 00  AM  PM Mountain Time on August 24, 2016 (Date), to accept the terms of this ADDENDUM in accordance with the provisions of Section 23 of the REPC. Unless so accepted, the offer as set forth in this ADDENDUM shall lapse.

DocuSigned by:  
Terry West 8/24/2016  
\_\_\_\_\_  
 Buyer  Seller Signature (Date) (Time)  Buyer  Seller Signature (Date) (Time)

ACCEPTANCE/COUNTEROFFER/REJECTION

CHECK ONE:

ACCEPTANCE:  Seller  Buyer hereby accepts the terms of this ADDENDUM.

COUNTEROFFER:  Seller  Buyer presents as a counteroffer the terms of attached ADDENDUM NO. \_\_\_\_

DocuSigned by:  
Gloyd Green 8/23/2016  
\_\_\_\_\_  
(Signature) (Date) (Time) (Signature) (Date) (Time)

REJECTION:  Seller  Buyer rejects the foregoing ADDENDUM.

\_\_\_\_\_  
(Signature) (Date) (Time) (Signature) (Date) (Time)

THIS FORM APPROVED BY THE UTAH REAL ESTATE COMMISSION AND THE OFFICE OF THE UTAH ATTORNEY GENERAL, EFFECTIVE AUGUST 5, 2003. IT REPLACES AND SUPERSEDES ALL PREVIOUSLY APPROVED VERSIONS OF THIS FORM.

Commitment Number: 5856



6340 South 3000 East #650  
 Cottonwood Heights , UT 84121  
 801-613-3955  
 801-613-3959

COMMITMENT FOR TITLE INSURANCE PREPARED FOR:

PROPERTY INFORMATION:

**5132 North Larkspur Road  
 MIDWAY ,UT 84049**

<b><u>LISTING AGENT</u></b>	<b><u>SELLING AGENT</u></b>
Berkshire Hathaway Home Services ATTN: Kathy Collings 6340 South 3000 East #600 SALT LAKE CITY , UT 84121	Berkshire Hathaway Home Services ATTN: Kathy Collings 6340 South 3000 East #600 SALT LAKE CITY , UT 84121
<b><u>LENDER</u></b>	<b><u>BUYER/SELLER</u></b>
ATTN: ,	<b>BUYER/BORROWER:</b> Terry West  <b>SELLERS/OWNERS:</b> Gloyd W. Green

## SCHEDULE A

ORDER/REFERENCE NO. **5856**

1. Effective Date: August 15, 2016 at 8:00 AM

2. Policy or Policies to be issued:	PREMIUM
(a) ALTA STANDARD OWNER'S POLICY 2006 \$ <b>414,000.00</b>	<b>\$2,265.00</b>
Proposed Insured:	

**Terry West**

(b) ALTA LOAN POLICY 2006 \$ <b>0.00</b>	<b>\$0.00</b>
Proposed Insured:	

(c) Endorsements	<b>\$0.00</b>
------------------	---------------

3. The estate or interest in the land described or referred to in this commitment and covered herein is fee simple and title thereto is, at the effective date hereof, vested in:

**Gloyd W. Green, man**

4. The Land referred to in this commitment is situated in the County of **WASATCH**, State of Utah, and is described as follows:

**Lot 82, BRIGHTON ESTATES NO. 2 SUBDIVISION, according to the official plat thereof on file and of Record in the WASATCH Records Office.**

The above described property also know by the street name of  
**5132 North Larkspur Road, MIDWAY, UT 84049**

File No. 5856

## **SCHEDULE B - SECTION 1**

### **REQUIREMENTS**

The following are the requirements to be complied with:

- (A) Pay the agreed amounts for the interest in the land and/or the mortgage or deed of trust to be insured.
- (B) Pay us the premiums, fees and charges for the policy. In the event the transaction, for which this commitment is furnished, cancels the minimum cancellation fee will be \$200.00
- (C) Documents satisfactory to us creating the interest in the land and/or the mortgage or deed of trust to be insured must be signed, delivered and recorded
- (D) You must tell us in writing the name of anyone not referred to in this commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
  - 1. Payment of any taxes or assessments as shown in Schedule B, Section 2, Exception No. 8-13, 15 and 16
  - 2. Deed of Reconveyance clearing Schedule B-2, Exception No. 18 and 19
  - 3. Order from the Bankruptcy Court approving the sale or abandoning the property to clear Schedule B-2, Exception No. 20
  - 4. Order from the Bankruptcy Court approving the purchase of the subject property to clear Schedule B-2, Exception No. 21
  - 5. Warranty Deed from Gloyd W. Green to Terry West.
  - 6. Trust Deed or Mortgage to secure your Loan.

NOTE: The following name(s) have been checked in the records of the WASATCH County Clerk for Judgments, and the WASATCH County Recorders for Federal Tax Liens:

Terry West  
Gloyd W. Green

FILE NO. 5856

**SCHEDULE B - Section 2**

The Policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes of assessments on real property or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary line, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. Unpatented mining claim: reservations or exceptions in patents or in acts authorizing the issuance thereof: water rights, claims, or title to water.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.

**Exceptions 1-7 will be eliminated in an ALTA Extended Coverage Policy.**

8. Taxes for the year 2016 are now accruing as a lien, not yet due and payable. (Tax I.D. 00-0000-1482).
9. Taxes for the year 2015 are delinquent in the amount of \$1,947.13, plus penalties and interest. (Tax Parcel No. 00-0000-1482).

(Continued)

FILE NO. 5856

**SCHEDULE B - Section II  
(Continued)**

10. Said property is located within the boundaries of MIDWAY, WASATCH COUNTY LEVY, WASATCH COUNTY SCHOOL DISTRICT, WASATCH COUNTY GENERAL HEALTH, WASATCH COUNTY FIRE PROTECTION DISTRICT, WASATCH COUNTY LIBRARY DISTRICT AND CENTRAL UTAH WATER DISTRICT, WASATCH COUNTY WATER DISTRICT NO. 1 AND WASATCH
11. Resolution establishing the Wasatch County Fire Protection Special Service District, recorded March 23rd, 1988, as Entry No. 149229, in Book 198, at Page 523, of official records of WASATCH, County Records Office.
12. Resolution establishing the Wasatch County Special Improvement District No. 1, recorded December 27th, 1993, as Entry No. 170233, in Book 270, at Page 680, of official records of WASATCH, County Records Office.
13. Resolution establishing the Wasatch County Recreation District, recorded December 3rd, 1996, as Entry No. 191048, in Book 337, at Page 483, of official records of WASATCH, County Records Office.
14. Easements, Reservations, Restrictions, Notes and All Matters, as shown on the official recorded plat of said subdivision.
15. Restrictive Covenants (deleting any covenant, condition, or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or nation origin to the extent such covenants, conditions, or restrictions violate 42USC 3604c), Recorded October 13th, 1961, as Entry No. 90555 in Book 59, at Page 191, WASATCH County Recorder's
16. Articles of Incorporation for Brighton Estates Improvement District, recorded October 30th, 1961, as Entry No. 90613, in Book 59, at Page 293, of official records of WASATCH, County Records Office.
17. Subject to any and all charges levied thereunder by the Brighton Estates Property Owners Association Homeowners Association. According to the State Home Owners Registry the contact information is Henry Johnson and can be contacted at 435-729-9437.

(Continued)

FILE NO. 5856

**SCHEDULE B - Section II  
(Continued)**

18. TRUST DEED securing an indebtedness of the amount stated therein and any other amounts payable under the terms thereof:

Dated: August 25th, 2011  
Amount: \$70,000.00, plus interest  
Trustor: Gloyd W. Green  
Trustee: Sutherland Title Company  
Beneficiary: Terry R. West  
Recorded: August 25th, 2011  
Entry No: 371761  
Book: 1040  
Page: 526

19. TRUST DEED securing an indebtedness of the amount stated therein and any other amounts payable under the terms thereof:

Dated: December 29th, 2005  
Amount: \$250,000.00, plus interest  
Trustor: Gloyd W. Greed  
Trustee: Richard L. Bird, Jr  
Beneficiary: Paul J. Barton, trustee of the Zada C. Green Irrevocable Trust Agreement dated the 21st day of March 1997  
Recorded: December 29th, 2005  
Entry No: 294491  
Book: 818  
Page: 304

SUBORDINATION AGREEMENT, dated August 25th, 2011 , wherein Paul J. Barton, trustee of the Zada C. Green Irrevocable Trust Agreement dated the 21st day of March 1997 subordinates their interest in Trust Deed above, and subject to the terms and conditions contained in said Subordination Agreement which was recorded August 25th, 2011, as Entry No. 371762, in Book 1040, at Page 528, Wasatch County Recorder's Office.

20. Chapter 11 Bankruptcy, filed June 3rd, 2015, by Gloyd W. Green (Social Security Number(s) 4853 ), as Case No. 15-25181, United States Bankruptcy Court, District of Utah (Open).

(The following One (1) exception(s) may affect the interest of the proposed insured of the subject property )

(Continued)

FILE NO. 5856

**SCHEDULE B - Section II  
(Continued)**

21. Chapter 13 Bankruptcy, filed September 2nd, 2015, by Terry Wileen West (Social Security Number(s) 2745), as Case No. 15-28236, United States Bankruptcy Court, District of Utah (Open).

\*\*\*\*\*  
FOR INFORMATIONAL PURPOSES ONLY

According to Official Records, there have been no documents conveying the land described herein within a period of 24 months prior to the date of this commitment except as follows:

NONE

\*\*\*\*\*

Your order has been assigned to Bridgett Ellis for a full service escrow. For questions concerning your escrow please contact Bridgett at (801) 613-3955

This report was searched by David Delahunty 801-613-3955

NOTE: THE POLICY(IES) TO BE ISSUED AS A RESULT OF THIS COMMITMENT CONTAIN AN ARBITRATION CLAUSE SET FORTH IN THE CONDITIONS AND STIPULATIONS SECTION. THE FOLLOWING IS INCLUDED FOR THE INFORMATION OF THE PROPOSED INSURED(S):

Typed August 26, 2016 by dcd.



## ARTISAN TITLE INSURANCE AGENCY, INC. PRIVACY POLICY

### We are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information that you provide to us. Therefore, we have adopted this Privacy Policy to govern the use and handling of your personal information.

### Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

### Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means.

Information about your transactions with us, our affiliated companies, or others; and

Information we receive from a consumer reporting agency.

### Use of Information

We request information from you for our own legitimate business purposes and not for benefit of any non affiliated party. Therefore, we will not release your information to non affiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis.

### Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

### Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information



We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize ARTISAN TITLE INSURANCE AGENCY, INC to cause the funds to be disbursed in accordance with this statement.

**Sellers**

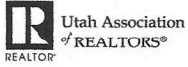
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Gloyd W. Green

To the best of my knowledge, the ALTA Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

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ARTISAN TITLE INSURANCE AGENCY, INC



### EXCLUSIVE RIGHT TO SELL LISTING AGREEMENT & AGENCY DISCLOSURE (WASATCH FRONT)

THIS IS A LEGALLY BINDING AGREEMENT - READ CAREFULLY BEFORE SIGNING  
DESIGNATED AGENCY BROKERAGE

**THIS EXCLUSIVE RIGHT TO SELL LISTING AGREEMENT & AGENCY DISCLOSURE** ("Listing Agreement") is entered into by and between Berkshire Hathaway HomeServices | Utah Properties (the "Company") and Gloyd Green (the "Seller").

**1. TERM OF LISTING.** The Seller hereby grants to the Company, including Kathy Collings (the "Seller's Agent") as the authorized agent for the Company starting on the Effective Date as defined in section 16 below, and ending at 5:00 P.M. (Mountain Time) on the 25 day of June, 2017 (the "Listing Period"), the exclusive right to sell, lease, or exchange real property owned by the Seller, described as: 5132 N Larkspur RD, Midway, UT 84049 (the "Property"), at the listing price and terms stated on the attached property data form (the "Data Form"), or at such other price and terms to which the Seller may agree in writing.

**2. BROKERAGE FEE.** If, during the Listing Period, the Company, the Seller's Agent, the Seller, another real estate agent, or anyone else locates a party who is ready, willing and able to buy, lease or exchange (collectively "acquire") the Property, or any part thereof, at the listing price and terms stated on the Data Form, or any other price and terms to which the Seller may agree in writing, the Seller agrees to pay to the Company a brokerage fee in the amount of 6% of such acquisition price PLUS \$195.00 (the "Brokerage Fee"). The Brokerage Fee, unless otherwise agreed in writing by the Seller and the Company, shall be due and payable from the Seller's proceeds on: (a) If a purchase, the date of recording of the Closing documents for the acquisition of the Property; (b) If a lease, the effective date of the lease; and (c) if an option, the date the option agreement is signed. If within the Listing Period, or any extension of the Listing Period, the Property is withdrawn from sale, transferred, conveyed, leased, rented, or made unmarketable by a voluntary act of Seller, without the written consent of the Company; or if the sale is prevented by default of the Seller, the Brokerage Fee shall be immediately due and payable to the Company. The Company is authorized to share the Brokerage Fee with another brokerage participating in any transaction arising out of this Listing Agreement.

**3. PROTECTION PERIOD.** If within 6 months after the termination or expiration of this Listing Agreement, the Property is acquired by any party to whom the Property was offered or shown by the Company, the Seller's Agent, the Seller, or another real estate agent during the Listing Period, or any extension of the Listing Period, the Seller agrees to pay to the Company the Brokerage Fee stated in Section 2, unless the Seller is obligated to pay a Brokerage Fee on such acquisition to another brokerage based on another valid listing agreement entered into after the expiration or termination date of this Listing Agreement.

**4. SELLER WARRANTIES/DISCLOSURES.** The Seller warrants to the Company that the individuals or entity listed above as the "Seller" represents all of the record owners of the Property. The Seller warrants that Seller has marketable title and an established right to sell, lease or exchange the Property. The Seller agrees to execute the necessary documents of conveyance. The Seller agrees to furnish buyer with good and marketable title, and to pay at Settlement, for a policy of title insurance in accordance with the terms of any real estate purchase contract entered into between buyer and Seller. The Seller agrees to fully inform the Seller's Agent regarding the Seller's knowledge of the condition of the Property. Upon signing of this Listing Agreement, the Seller agrees to personally complete and sign a Seller's Property Condition Disclosure form. The Seller agrees to indemnify and hold harmless the Seller's Agent and the Company against any claims that may arise from: (a) The Seller providing incorrect or inaccurate information regarding the Property; (b) The Seller failing to disclose material information regarding the Property, including, but not limited to, the condition of all appliances; the condition of heating, plumbing, and electrical fixtures and equipment; sewer problems; moisture or other problems in the roof or foundation; the availability and location of utilities; and the location of property lines; and (c) Any injuries resulting from any unsafe conditions within the Property.

**5. AGENCY RELATIONSHIPS.**

**5.1 Duties of a Seller's Agent.** By signing this Listing Agreement, the Seller designates the Seller's Agent and the Principal/Branch Broker for the Company (the "Broker"), as agents for the Seller to locate a buyer for the Property. The Seller authorizes the Seller's Agent or the Broker to appoint another agent in the Company to also represent the Seller in the event the Seller's Agent or the Broker will be unavailable to service the Seller. As agents for the Seller, they

Page 1 of 3      Seller's Initials [ GWB ] Date 26-6-16

(k) Place the Earnest Money Deposit into an interest-bearing trust account with interest paid to the Utah Association of Realtors® Housing Opportunity Fund (UARHOF) to assist in creating affordable housing throughout the state.

10. **PERSONAL PROPERTY.** The Seller acknowledges that the Company has discussed with the Seller the safeguarding of personal property and valuables located within the Property. The Seller acknowledges that the Company is not an insurer against the loss of or damage to personal property. The Seller agrees to hold the Company harmless from any loss or damage that might result from any authorizations given in Section 9.

11. **ATTACHMENT.** The Data Form is incorporated into this Listing Agreement by this reference. In addition to the Data Form, there [ ] ARE [  ] ARE NOT additional terms contained in an Addendum attached to this Listing Agreement. If an Addendum is attached, the terms of that Addendum are incorporated into this Listing Agreement by this reference.

12. **EQUAL HOUSING OPPORTUNITY.** The Seller and the Company shall comply with Federal, State, and local fair housing laws.

13. **ELECTRONIC TRANSMISSION & COUNTERPARTS.** Electronic transmission (including email and fax) of a signed copy of this Listing Agreement and any addenda, and the retransmission of any signed electronic transmission, shall be the same as delivery of an original. This Listing Agreement and any addenda may be executed in counterparts.

14. **DUE-ON-SALE.** Certain types of transactions may trigger what is commonly referred to as a "due-on-sale" clause. A "due-on-sale" clause typically states that the Seller's lender or mortgagee may call the loan due and payable in full if the Seller participates in certain types of transactions. These types of transactions may include, but are not limited to, transactions where: (a) The sale of the property does not result in the underlying debt being paid in full; (b) The parties enter into a seller-financed transaction; (c) A lease option agreement is entered into; or (d) Any other unauthorized transfer of title to the Property has occurred without the lender's consent. The Seller understands that if any underlying encumbrances or mortgages on the Property contain a "due-on-sale clause," and the "due-on-sale" clause is triggered, the lender may call the entire unpaid balance of the loan immediately due.

15. **ENTIRE AGREEMENT.** This Listing Agreement, including the Seller's Property Condition Disclosure form and the Data Form, contain the entire agreement between the parties relating to the subject matter of this Listing Agreement. This Listing Agreement may not be modified or amended except in writing signed by the parties hereto.

16. **EFFECTIVE DATE.** This Listing Agreement is entered into and is effective as of the date: (a) The Seller and the authorized Seller's Agent or Broker have signed this Listing Agreement; and (b) The authorized Seller's Agent or Broker has received a mutually signed copy of this Listing Agreement (the "Effective Date").

THE UNDERSIGNED hereby agree to the terms of this Listing Agreement.

[Signature] \_\_\_\_\_ 24-6-16  
(Seller's Signature) (Address) (Date)

\_\_\_\_\_  
(Daytime Phone/Fax) (Email Address)

\_\_\_\_\_  
(Seller's Signature) (Address) (Date)

\_\_\_\_\_  
(Daytime Phone/Fax) (Email Address)

ACCEPTED by the Company

by: [Signature] 6-22-16  
(Signature of Authorized Seller's Agent or Broker) (Date)

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UAR FORM 8