

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) made and entered into this ____ day of _____, 2022, by and between:

The City of Thornton, a Colorado home rule municipality located at 9500 Civic Center Drive, Thornton, Colorado 80229 (“**Seller**”), and _____, a _____, whose address is _____ (“**Purchaser**”),

Each a “Party” and collectively referred to as the “Parties” herein.

NOW THEREFORE, for and in consideration of the foregoing, the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

I. LANDS, INTERESTS, CONSIDERATION, AND DEED

- (a) **Lands.** Purchaser hereby agrees to acquire, and Seller hereby agrees to convey, subject to the terms provided herein, **an undivided %** of Seller’s interest in and to oil, gas, and other minerals, including royalties and overriding royalties, in, to, and under and that may be produced from those certain lands (“**Subject Interests**”) situated in _____ County, Colorado, described as follows (“**Lands**”):

Township North/South, Range West of the 6th P.M.
Section ____: _____

- (b) **Purported Interest.** The Subject Interests are purported to be an undivided _____ **Net Mineral Acres** (“**NMA**”) out of the Lands, with a purported Royalty Interest (as defined in subsections (c)(i.) and (ii.) herein, respectively) of **20%** attributable thereto, which is being conveyed in exchange for the total sum of _____ (\$ _____) (“**Total Consideration**”).

- (c) **Proportionate Adjustment.** In the event title to the Subject Interests is approved on a different amount than the respective purported **NMA** or purported Royalty Interest (as defined in subsections (c)(i.) and (c)(ii.) herein, respectively) set out in the preceding subsection (b) herein, then the Total Consideration shall be proportionally adjusted at closing.

(i.) “**NMA**” means the full oil, gas, and mineral interest in one (1) undivided acre of land. By way of example, ownership of an undivided one-half (1/2) mineral interest in a tract measuring two (2) gross acres in surface area would constitute ownership of one (1) NMA.

(ii.) “**Royalty Interest**” means the quantum of the Seller’s royalty (including landowner’s royalty, non-participating royalty, and overriding royalty, but exclusive of any royalty or other payments deriving from the surface rights), measured in terms of a percentage, that is attributable to the Subject Interests, provided, however, that if it is determined that Seller owns mineral interest that is unleased, the Seller’s royalty for that mineral interest shall be deemed to be 20%.

(iii.) Notwithstanding anything contained herein, should the NMA be determined to be more or less than 10% of the purported NMA, then either Party may terminate this Agreement upon written notice within three (3) days of realizing the same.

- (d) **Mineral Deed.** Seller shall convey the Subject Interests to Purchaser by a Mineral Deed in substantially the same form as **Exhibit “A” attached hereto (“Mineral Deed”)**. The Mineral

Deed shall be effective the date Seller receives Total Consideration (“**Effective Date**”) and convey an undivided ___% of the Subject Interests.

II. **SELLER'S REPRESENTATIONS**

Seller represents and warrants to Purchaser that:

- (a) Seller has all requisite power and authority to carry on its business as presently conducted and to enter into this Agreement.
- (b) Seller has caused no unrecorded mortgage, lien, or other encumbrance to attach to any portion of the Subject Interests.
- (c) Seller is not currently obligated to sell, and will not offer to sell, the Subject Interests to any party other than Purchaser unless and until this Agreement terminates.
- (d) To Seller’s knowledge, no suit, action, claim, or other proceeding is pending or threatened before any court or governmental agency affecting the Subject Interests, and Seller shall promptly notify Purchaser of any such proceeding which arises or is threatened.
- (e) **Seller does not warrant title to the Subject Interests.**

III. **PURCHASER'S REPRESENTATIONS**

Purchaser represents and warrants that:

- (a) Purchaser has all requisite power and authority to carry on its business as presently conducted, to enter into this Agreement, to purchase the Subject Interests on the terms described in this Agreement, and to perform its obligations hereunder.
- (b) Purchaser has the funds necessary to fully pay for the Subject Interests and to pay any settlement amounts at closing.
- (c) Purchaser will be responsible for paying taxes levied against the Subject Interests in any future year and for the duration of the current year following the Effective Date, and will take such actions as necessary related thereto.

IV. **PRIMARY TERM AND DUE DILIGENCE**

- (a) Purchaser shall have twenty-one (21) days (“**Primary Term**”) to conduct its due diligence on Seller’s title to the Subject Interests and to make any objection with respect to “**Defective Title**” or any “**Defect**” (as defined in subsection (c) herein). Purchaser shall bear all costs of the title search, including any title opinions sought by Purchaser, incurred in the course of conducting its due diligence on Seller’s title to the Subject Interests.
- (b) Purchaser shall notify Seller in writing within the Primary Term of any objection to title. Purchaser shall have the right to object to Defective Title or any Defect in Purchaser’s reasonable discretion. If Purchaser notifies Seller within the Primary Term that Purchaser has approved title, or if the Primary Term expires without any objection from Purchaser, Purchaser accepts the condition of title to the Subject Interests and shall be obligated to tender the Total Consideration to Seller and purchase the Subject Interests.
- (c) “**Defective Title**” or “**Defect**” means any burden, lien, mortgage, charge, claim, lawsuit, encumbrance, obligation, condition, or other defect impacting all or a portion of the Subject

Interests, which might cause a reasonably prudent person with knowledge of all the facts and their legal bearing to find title less than acceptable. For the sake of clarity, an oil and gas lease does not constitute a Defect or Defective Title.

- (d) In the event Purchaser objects within the Primary Term to Defective Title or a Defect, Purchaser's notice to Seller shall identify each Defect with particularity, and there shall be a period of **f o u r t e e n** (14) days following Seller's receipt of Purchaser's title objection notice to accommodate the resolution terms described in this **Section IV(d)** ("**Title Resolution Period**"). The following terms shall apply during the Title Resolution Period:
- (i.) The Title Resolution Period may be extended upon written agreement of the Parties, but either Party may decline to extend the Title Resolution Period in its discretion for any reason or no reason.
 - (ii.) Purchaser may elect to cure a title Defect. Purchaser shall notify Seller in writing of its receipt of sufficient evidence of all Defects being cured/ fixed in a manner acceptable to Purchaser, and title otherwise being approved by Purchaser ("**Notice of Approval**"). In the event any active lien(s) are encumbering the Subject Interests and in order to cure any title Defect caused thereby, Seller may, but is not obligated to, authorize application of the necessary portion of the Total Consideration towards paying off all or a portion of any active lien(s) at closing. Notwithstanding anything contained herein, should Purchaser elect not to cure a title Defect, Seller shall have the opportunity to elect to cure such Defect in its own discretion. Should Seller elect to cure such Defect, Seller shall provide notice to Purchaser ("**Seller Election to Cure**") and shall automatically have thirty (30) days to complete such curative, with opportunity to further extend upon written agreement of the Parties. Should Seller complete curative, Seller shall issue a "**Notice of Cure**" to Purchaser and Parties shall proceed to Closing within seven (7) days.
 - (iii.) Purchaser may elect to notify Seller in writing of Purchaser's withdrawal of its title objection for any reason ("**Notice of Withdrawal**").
 - (iv.) If the Parties have not agreed to a written settlement of Purchaser's title objection within the Title Resolution Period or any extension thereof as contemplated herein, this Agreement will terminate and the Parties shall have no further obligations to each other hereunder, unless Seller has received a Notice of Approval or Notice of Withdrawal or Purchaser has received a Notice of Cure during the Title Resolution Period or any extension thereof.
 - (v.) If title on less than 90% of the Subject Interests is without Defect, the Parties may agree, but are not obligated, to close on that portion and the Total Consideration shall be proportionately adjusted in accordance with Section **I(c)** herein. If title on more than 90% of the Subject Interests is without Defect, the Parties shall close on that portion and the Total Consideration shall be proportionately adjusted in accordance with Section **I(c)** herein.

V. **MUTUAL CLOSING AND POST-CLOSING OBLIGATIONS TO THE PARTIES**

- (a) If closing occurs, closing shall occur thirty (30) days from the date of this Agreement, or as commensurately extended on a day-for-day basis if necessary to accommodate a Title Resolution Period or any extension thereof that runs past said date ("**Closing Date**"), provided that the Parties may move such Closing Date to a different mutually agreed-upon date. Prior to the Closing Date, Seller shall execute the Mineral Deed and have it ready to deliver at closing.
- (b) On the Closing Date, Purchaser shall deliver final payment to Seller, consisting of the Total Consideration, subject to proportionate adjustment as set out in **Section I(c)**, ("**Final**

Payment”). Concurrent with Purchaser’s delivery of the Final Payment and in exchange therefor, Seller shall e-mail to Purchaser a scanned copy of the executed Mineral Deed, and then deposit the original executed Mineral Deed in the U.S. mail or with a commercial carrier for delivery to Purchaser at the address listed above. Alternatively, Purchaser may elect to appoint an agent (“**Purchaser’s Agent**”) identified prior to closing to receive the executed Mineral Deed in person and Seller shall deliver the original executed Mineral Deed to Purchaser’s Agent at closing concurrent with Purchaser’s delivery of the Final Payment.

Any funds due under this Agreement shall be paid or tendered to Seller by electronic wire transfer upon request by Seller. Wire transfer instructions will be provided prior to closing. Such payment will be deemed to have been paid upon receipt of said wire.

VI. OBLIGATION PERFORMANCE DEADLINES

If the last day for performance of any obligation under this Agreement falls on a Saturday, Sunday, or City of Thornton-observed holiday (“**City holiday**”), the time to perform such obligation is extended until the next day that is not a Saturday, Sunday, or City holiday.

VII. NOTICES

Whenever this Agreement requires or permits any consent, notice, request, or demand from one person to another, the consent, notice, request, or demand must be in writing to be effective and sent by reputable express courier, or registered or certified mail, return receipt requested, with courtesy copy sent via email, in each case addressed as indicated herein. Any such written communication shall be deemed to be delivered, issued, given, received, and sent if delivered by reputable express courier service, when actually received by the Party to whom notice is sent.

Seller Email: sprescott@hrodlaw.com, sean.saddler@thorntonco.gov, scott.twombly@thorntonco.gov

Purchaser Email: _____

VIII. MISCELLANEOUS

- (a) The obligations of the Parties created by this Agreement extend to the successors, heirs, and assigns of each Party.
- (b) This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.
- (c) Governmental Immunity. The Parties understand and agree that Seller, its officers, and its employees, are relying on, and do not waive or intend to waive, by any provision of this Agreement, any rights, protections, or privileges provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as it is from time to time amended, or otherwise available to Seller, its officers, or employees. Any provision of this Agreement, whether incorporated herein by reference or not, shall be controlled, limited, and otherwise modified so as to limit any liability of Seller in accordance with such governmental immunity.
- (d) Nothing contained herein shall give rise to any rights or allow any claim by any third party. It is the express intention of the Parties that any third-party receiving benefits from this Agreement shall be deemed an incidental beneficiary only.
- (e) Neither Party engaged a broker or agent, therefore no commissions will be due and payable to any broker.

- (f) The Parties agree to execute any additional documents and to take any additional action necessary to carry out this Agreement.
- (g) This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties.
- (h) The waiver by any Party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.
- (i) If any article, section, paragraph, sentence, clause, or phrase of this Agreement is held to be invalid or unconstitutional for any reason, such decision shall not affect the validity, enforceability, or constitutionality of the remaining provisions of this Agreement.
- (j) This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.
- (k) The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.
- (l) The Parties hereby recognize that counsel for Seller, Steven Louis-Prescott of the law firm Hamre, Rodriguez, Ostrander, & Dingess, P.C. (“**Seller’s Counsel**”), has historically represented sellers and not purchasers in the sale of mineral rights and also mineral owners generally in matters involving oil and gas operators (“**Operators**”). In some cases, Seller’s Counsel has represented purchasers of mineral rights subsequent to their acquisition of mineral rights in matters and disputes involving Operators. To the extent Seller’s Counsel has represented Purchaser or represents Purchaser in the future, Seller’s Counsel shall promptly notify Seller in writing and the Parties hereby agree that Seller’s Counsel is not involved in an unwaivable conflict given the nature of this transaction and provide their informed consent to Seller’s Counsel representation of Seller with respect to this Agreement and sale of the Subject Interests. The Parties expressly acknowledge that Seller’s Counsel does not represent Purchaser with respect to this Agreement and sale of the Subject Interests.

Signatures on the Following Page

IN WITNESS WHEREOF, the Parties, acting through their authorized representatives, do hereby execute this Agreement as of the date set out below for each of the Parties.

SELLER:

City of Thornton
a Colorado home rule municipality

By: Kevin S. Woods, City Manager

DATE

PURCHASER:

By: _____
As: _____

DATE

EXHIBIT "A"

QUITCLAIM MINERAL DEED

STATE OF COLORADO §

COUNTY OF WELD §

KNOW ALL MEN BY THESE PRESENTS:

That, **the City of Thornton**, a Colorado home rule municipality located at 9500 Civic Center Drive, Thornton, Colorado 80229, hereinafter called Grantor, for and in consideration of the sum of One Hundred Dollars (\$100.00) and other good and valuable consideration cash in hand paid, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell, convey, transfer, assign and deliver unto _____, a _____ whose address is _____, hereinafter called Grantee, an undivided _____% of Grantor's interest in and to all oil, gas and other minerals, including royalties and overriding royalties in, to and under and that may be produced from the following described lands in Weld County, Colorado ("Lands"), to-wit:

Township North/South, Range West of the 6th P.M.

Section : _____

This conveyance is made subject to any rights now existing to any lessee or assigns under any valid and subsisting oil and gas lease of record heretofore executed; it being understood and agreed that Grantee shall receive and enjoy all bonuses, rents, royalties, overriding royalties, and other benefits attributable to the herein granted undivided interests and which may accrue under the terms of said lease(s), but only to the extent such proceeds and benefits arise from and after the Effective Date hereof. Notwithstanding anything contained herein, Grantor expressly reserves any and all interests and rights to the surface that it has or may obtain, including the sand, gravel, and the like. Grantor conveys no rights to use of the surface of the Lands and expressly reserves any and all proceeds and revenue associated with use of the surface. Grantor makes no warranty of title or otherwise.

IN WITNESS WHEREOF, Grantor has caused this Mineral Deed to be executed as of the date of acknowledgment below; however, this conveyance is to be effective for all purposes, including runs of oil and deliveries of gas and other hydrocarbons, as of _____, 2022 (the "Effective Date"). It is specifically understood and agreed that Grantor shall retain all interest, claim, or right to any cash or non-cash payments, sums, or benefits constituting proceeds of production ("Production Proceeds") of oil, gas and/or other minerals attributable to the interest conveyed herein for any and all production occurring prior to the Effective Date, with Grantee being assigned and entitled to all such interest, claim, or right to the Production Proceeds on any and all production occurring on or after the Effective Date. As to Production Proceeds distributed to the incorrect party, Grantee agrees to account to Grantor for and endorse over or pay to Grantor the Production Proceeds on any and all production occurring prior to the Effective Date, and Grantor agrees to account to Grantee for and endorse over or pay to Grantee the Production Proceeds on any and all production occurring on or after the Effective Date. Additionally, Grantor and Grantee hereby expressly authorize and direct any lessee, operator, purchaser, or other party undertaking to distribute the Production Proceeds attributable to the interest herein conveyed to pay to Grantor the Production Proceeds attributable to all production occurring prior to the Effective Date, and pay to Grantee the Production Proceeds attributable to all production occurring on or after Effective Date, without further authorization from either party and without the necessity of either party executing a transfer order or any similar instrument before payments are made.

NOTICE: THIS INSTRUMENT IS A MINERAL DEED, NOT AN OIL AND GAS LEASE OR A TOP LEASE. GRANTOR IS HEREIN CONVEYING ALL OR THE STATED PORTION OF GRANTOR'S MINERAL INTEREST IN AND TO THE LANDS DESCRIBED HEREINABOVE.

CITY OF THORNTON
a Colorado home rule municipality

By: Kevin S. Woods, City Manager

STATE OF COLORADO _____ §
COUNTY OF ADAMS §

Before me, the undersigned, a Notary Public, in and for said County and State, on this _____ day of _____, 2022, personally appeared Kevin S. Woods, City Manager, **of the City of Thornton**, a Colorado home rule municipality, to me known to be the identical person(s) who executed the within and foregoing Mineral.

IN WITNESS WHEREOF, I hereunto set my official signature and affix my seal the day and year last above written.

SEAL: (Please color if embossment is used in lieu of ink stamp)

Notary Public