

## **ASSET PURCHASE AGREEMENT**

This Agreement (Agreement) is made on July 26, 2018 (the “Effective Date”), between Keweenaw County, a Michigan municipal corporation, whose principal business address is 5095 4<sup>th</sup> Street, Eagle River, MI 49950 (Seller) and \_\_\_\_\_, a \_\_\_\_\_, whose principal business address is \_\_\_\_\_ (Buyer).

### **Recitals**

This Agreement is made with reference to the following facts and circumstances:

- A. Seller owns and operates a business commonly known as the Keweenaw Mountain Lodge (“KML”) located at 1452 US 41, Copper Harbor, Michigan.
- B. KML is a hospitality and resort facility consisting of a lodge, conference center, banquet hall, 24 cabins, an 8-room motel, restaurant facilities, an antenna tower, various maintenance and utility buildings and a 9-hole golf course (collectively, the “Improvements”).
- C. Buyer wishes to buy and Seller wishes to sell the Improvements and the real estate on which KML is situated, as described on Exhibit 1.1 to this Agreement (the “Real Estate”).
- D. Buyer has agreed to purchase the Real Estate subject to reservation by the Seller of three 15’ wide perpetual easements across portions of the Real Estate for non-motorized, recreational trail activities, said easements being described on Exhibit 1.2 to this Agreement (the “Trail Easements”).
- E. Buyer has further agreed to purchase the Real Estate subject to all other easements of record, including but not limited to, an historic preservation easement in favor of the State Historic Preservation Office (“SHPO”) which will be recorded by Seller at Closing (the “Historic Preservation Easement”), a copy of which is attached hereto as Exhibit 1.3.
- F. Buyer also wishes to buy and Seller also wishes to sell certain personal property and intangibles utilized and owned without encumbrance by Seller in connection with the operation of KML, as described on Exhibit 1.4 to this Agreement (the “Personal Property and Intangibles”).
- G. The Real Estate, Improvements and the Personal Property and Intangibles are referred to collectively in this Agreement as the “Purchased Assets.”

- H. The Personal Property and Intangibles include a Resort Class C liquor license and an SDM liquor license issued by the Michigan Liquor Control Commission, Nos. 182951 and 182952, respectively (the “MLCC Licenses”). Transfer of the MLCC Licenses requires approval of the Buyer as a licensee by the Michigan Liquor Control Commission.
- I. Buyer has agreed to buy the Purchased Assets in “as is” condition without reliance upon any representations or warranties by Seller as to the condition of the Purchased Assets or to the fitness of the Purchased Assets for any particular purpose.

### **Agreement of the Parties**

#### **1. Agreement to Purchase and Sell.**

**1.1 Sale of Real Estate.** At Closing, Seller shall convey the Real Estate together with all improvements and appurtenances to Buyer by warranty deed. The conveyance shall be subject to the Trail Easements, the Historic Preservation Easement, and all other easements of record; the 66’ public right of way for Golf Course Road shown on the Certificate of Survey referenced on Exhibits 1.1 and 1.2; all exceptions (including mineral), reservations, reverters, restrictions, and conditions contained in all prior conveyances of record and all other instruments of record; the Keweenaw County Zoning Ordinance; and all other applicable federal, state, county and township laws, regulations, and ordinances. The warranty Deed will give Buyer the right to make zero divisions under Section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967.

**1.2 Sale of Personal Property and Intangibles.** At Closing, Seller shall sell, assign, convey, transfer, set over, and deliver the Personal Property and Intangibles to Buyer by appropriate instruments of transfer. After Closing, Seller shall cooperate with Buyer in completing the transfer of any intangible item, such as a website domain name, which requires further action by Seller to transfer.

The following assets are expressly excluded from sale and shall be retained by Seller following the Closing: cash, cash equivalents, accounts receivable, prepaid expenses, prepaid taxes, and lease deposits (except that deposits pertaining to any leases being assigned by Seller shall also be assigned); insurance policies and rights under insurance policies; personnel records and other records that are required by law to be retained; accounting records; tractors and tractor accessories; motor vehicles; construction equipment; and items of personal property and possessions of Seller that are not and have not been a part of the operation of KML.

Unless otherwise agreed in writing, Seller shall remove the excluded assets from KML within thirty (30) calendar days of Closing. Buyer shall grant Seller reasonable access to KML for that purpose after Closing. If Seller fails to remove the excluded assets on or within thirty (30) calendar days of Closing, whichever is later, Buyer may dispose of such

items or make such other arrangements as Buyer may determine appropriate without recourse from Seller.

Buyer has been advised that certain golf carts stored at KML are not the property of Seller and are not part of the Purchased Assets. Baskets on the disc course must be returned to the Copper Harbor Trails Club if Buyer eliminates the disc course or public access to the disc course.

**1.3 Assignment and Assumption of Contractual Obligations.** At Closing, Seller shall assign to Buyer and Buyer shall assume the following contractual obligations of Seller:

- a) 2018 cabin and room reservations taken by Seller prior to Closing and all 2018 event contracts and agreements entered into by Seller prior to Closing.
- b) Seller's obligations under 60-Month Lease dated June 14, 2016 between Meyer Yamaha, LLC and the Keweenaw Mountain Lodge for the lease of fifteen (15) Yamaha golf cars;
- c) Seller's agreements with UPPCO and Pasty.Net concerning use of the antenna tower on the Property; and
- d) Seller's commitment to allow Shorewaves to use the antenna tower on the Property without charge for one year.

As used in this section, "2018 cabin and room reservations" and "2018 event contracts and agreements" mean reservations pertaining to dates after Closing, and contracts and agreements for events scheduled after Closing.

Between the Effective Date of this Agreement and Closing, Seller will use its best efforts to provide Buyer with ongoing reports showing 2018 cabin and room reservations and 2018 event contracts and agreements. Seller will provide Buyer with a final list of the remaining 2018 cabin and room reservations and 2018 event contracts and agreements on or before Closing.

Buyer shall indemnify and hold Seller harmless against all liabilities and obligations arising under these contracts, agreements, and leases after Closing.

**1.4 Liabilities Assumed and Liabilities Excluded.** As of the Closing Date, Buyer shall assume and timely pay Seller's liabilities under the leases and contracts referred to in Section 1.3 of this Agreement. Buyer shall also assume and pay those utility charges, insurance costs, payroll costs, fuel charges, inventory costs, real property taxes, personal property taxes, and all other operating costs and liabilities related to the business of KML which arise after the Closing Date (the "Assumed Liabilities"). Seller shall reasonably cooperate to transfer any of the foregoing, including utilities, to Buyer if requested.

Other than the Assumed Liabilities, Buyer does not assume nor shall Buyer be obligated for any other liabilities or responsibilities of Seller arising prior to the Closing Date. Without limiting the generality of the foregoing, the following liabilities shall be retained, paid, performed, and discharged solely by the Seller: any liability arising out of goods or services provided by Seller to the public prior to the Closing Date; Any liability for taxes arising prior to the Closing Date, including but not limited to (i) payroll taxes and any other taxes arising as a result of Seller's operation of KML or ownership of the Purchased Assets before the Closing Date, (ii) any taxes on Seller that will arise as a result of the sale of the Purchased Assets pursuant to this Agreement, and (iii) any deferred taxes of any nature; any liability under any contract not assumed by Buyer; any liability arising prior to the Closing Date under any employee plan or relating to payroll, worker's compensation, unemployment benefits, or any other employee plans or benefits of any kind for Seller's employees or former employees or both; any liability arising prior to the Closing Date under any employment, severance, retention, or termination agreement with any employee of Seller; any liability arising prior to the Closing Date out of or relating to any employee grievance whether or not the affected employees are hired by either Buyer; any liability arising out of any litigation or other proceeding commenced after the Closing Date and arising out of or relating to any occurrence or event happening before the Closing Date; and any Liability arising out of or resulting from Seller's compliance or noncompliance with any legal duty or order of any governmental body.

**2. Purchase Price.** The purchase price for the Purchased Assets will be the amount bid by the Buyer at the auction of the Purchased Assets that was conducted by Maas Companies, Inc. ("Maas") on July 26, 2018 (the "Bid Amount"), plus a buyer's premium in the amount of ten percent (10%) of the Bid Amount, or Three Thousand Five Hundred Dollars (\$3,500.00), whichever is greater (Buyer's Premium).

Hereafter, as used in this Agreement, the term "Purchase Price" shall mean the total of the Bid Amount and Buyer's Premium.

Seller is not a taxable entity for purposes of federal, state, or local income tax, and the parties have therefore not agreed to any specific allocation of the Purchase Price between the Real Estate, Improvements and the Personal Property and Intangibles.

**3. Terms of Payment.** Payment of the Purchase Price shall be due and payable as follows:

- (a) A non-refundable initial deposit of Twenty Thousand Dollars (\$20,000.00) toward the Purchase Price in certified funds on the auction date, Thursday, July 26, 2018, to be tendered to and held in escrow by Keweenaw Title Company;
- (b) An additional deposit toward the Purchase Price in certified funds or wire transferred funds to be delivered to Keweenaw Title Company not later than 5:00 p.m. E.S.T. on Monday, July 30, 2018 to bring total deposits to twenty (20%) of the Purchase Price; and
- (c) The balance of the Purchase Price at Closing.

Failure to provide the additional deposit by 5:00 p.m. E.S.T. on Monday, July 30, 2018 shall result in forfeiture of the initial deposit to Seller. Failure of a Buyer to close for any reason other than Seller's inability to provide marketable title to the Real Estate (as defined in this Agreement) or clear title to the Personal Property shall result in forfeiture of both deposits to Seller. In addition, Seller shall be entitled to pursue any and all other available legal and equitable remedies against Buyer for default, including but not limited to holding Buyer liable for any deficiency resulting from a subsequent resale of the Purchased Assets, costs and expenses associated with resale of the Purchased Assets, and court costs and attorney's fees.

**4. Inventory and Supplies.** The Personal Property and Intangibles include any food, beverage, golf products, souvenir items, spare parts, cleaning supplies, and other supplies and inventory items which may be present at KML on the Closing Date. It is expressly agreed that Seller is not obligated to assure any level of inventory and supplies will be present at KML on the Closing Date.

**5. Tax Matters.** The Real Estate and the Personal Property and Intangibles have not been subject to real estate tax or personal property tax during the time they have been owned by the Seller. Future real estate and personal property taxes and assessments shall be paid by Buyer as such become due and payable. Buyers recognize that under Michigan law, assessments originate in Grant Township, not Keweenaw County. All Social Security, sales, use, unemployment, withholding, and Michigan business taxes for all years up to and including the last completed tax year and all quarters for the current tax year immediately preceding the Closing Date shall be paid in full by Seller, regardless of when payment of these amounts become due. All such taxes shall be pro-rated amongst Buyer and Seller for any partial quarter for the current tax year immediately preceding the Closing Date.

**6. Title to Real Estate and Personal Property and Intangibles.** At Closing, title to the Real Estate shall be conveyed by warranty deed subject to the limitations set forth in Section 1.1 of this Agreement and any conditions that an accurate survey would disclose. The Personal Property shall be conveyed at Closing free, clear, and unencumbered.

Immediately after the Closing, Seller shall make application for issuance of a conditional tax clearance to the Michigan Department of Treasury pertaining to sales, use, Michigan business, income, payroll withholding, and unemployment taxes. Seller shall assume the responsibility for the preparation of all appropriate returns and reports for submission of application for issuance of conditional tax clearance.

**7. Evidence of Title.** As evidence of marketable title, Seller shall furnish to Buyer as soon as possible, but no later than 10 days after the Effective Date, a commitment from Keweenaw Title Company for a title insurance policy in an amount not less than the Purchase Price. On receipt of evidence of marketable title, Buyer shall have 10 days to object to title. If objection to title is made based on a written opinion of Buyer's attorney that the title is not in the condition required for performance under this Agreement, Seller shall have thirty (30) days from the date Seller is notified in writing of the particular

defects claimed to exercise one of the following options, in Seller's sole discretion: (1) remedy the title; (2) obtain title insurance insuring the defect; or (3) refund the initial and additional deposits in full termination of this Agreement. If Seller remedies title or obtains a title insurance policy within the time specified, Buyer's title objection shall be of no force or effect.

**8. Representations, Covenants, and Warranties of Seller.** Seller represents, covenants, and warrants the following to be true, which representations, covenants, and warranties shall survive the Closing:

**8.1 Status of Seller.** Seller is a Michigan municipal corporation duly organized, validly existing, and in good standing under the Constitution of the State of Michigan and the laws of the State of Michigan, and, further, is properly authorized, according to statute and an adopted resolution of its Board of Commissioners to enter into and carry out the transactions contemplated by this Agreement.

**8.2 Authority.** When executed, this Agreement and all instruments necessary to carry out the transactions contemplated by this Agreement will be legal, valid, and binding obligations of Seller.

**8.3 Audit Reports.** Seller's annual audit reports for the years ending 2015-2017 have been provided to Buyer. KML's financial position at December 31 of the years 2015-2017 and the results of KML's operations during the years 2015-2017 are separately stated in those audit reports. Seller believes that the information contained in those audit reports presents fairly, in all material respects, KML's financial position as of December 31 of each of those years and the results of KML's operations during each of those years in accordance with accounting principles generally accepted in the United States of America.

**8.4 Absence of Undisclosed Liabilities.** Seller has no known liabilities related to KML except for those disclosed in its Audit Reports and current obligations arising in the ordinary course of business.

**8.5 Status of Title to the Purchased Assets.** The Purchased Assets are not subject to any mortgage, pledge, lien, encumbrance, security interest, or charge, except as follows:

Between January 2007 and June 2008, and pursuant to Act 94 of the Public Acts of Michigan, 1933 (codified at Mich. Comp. Laws §§ 141.101 - .140), Seller issued to the United States of America, acting through the Rural Housing Service, United States Department of Agriculture ("USDA-Rural Development"), a series of three (3) mortgage revenue bonds (the "Bonds"), in exchange for which USDA-Rural Development lent Seller \$1,803,000. To secure its repayment obligations, and pursuant to the terms of such Bonds, Seller irrevocably pledged the revenues of KML, and only such revenues, to USDA-Rural Development as security for the Bonds. Although these Bonds are currently in default, USDA-Rural Development has agreed to fully, finally and completely release Seller from all liability under the Bonds upon its receipt of its share of the proceeds from

the sale of the Purchased Assets, as set forth in Section 17 of this Purchase Agreement. Only Seller is liable under the Bonds, and USDA-Rural Development has neither the right to seek repayment of the Bonds from Buyer nor the right to foreclose on any of the assets to be purchased by Buyer pursuant to this Purchase Agreement. USDA-Rural Development has consented to the sale of the Purchased Assets, including KML, as set forth in this Purchase Agreement, notwithstanding that Seller's liability under the Bonds will not be formally and finally extinguished, settled and discharged until after the Closing described in Section 17 of this Purchase Agreement.

U.S. Economic Development Administration ("EDA") also has an undivided equitable reversionary interest in KML per 13 C.F.R. § 314.2 related to a grant that EDA awarded to Keweenaw County in 2007. As with the interest of USDA-Rural Development, EDA's interest will be extinguished upon its receipt of its share of the proceeds from the sale of the Purchased Assets, as set forth in Section 17 of this Purchase Agreement.

**8.6 Business Name.** Seller agrees that after Closing, Buyer shall have the right to use the name "Keweenaw Mountain Lodge" in connection with the business it will be conducting with the Purchased Assets; however, Buyer agrees that it shall not state or imply in any public or private communication, written or verbal, that Seller remains associated with KML or that Seller endorses Buyer's business after Closing.

**8.7 Status of Leases and Contracts.** Seller has, to the best of Seller's knowledge, complied with all of the provisions of the leases and contracts described in this Agreement.

**8.8 Insurance.** The Purchased Assets are and will be adequately insured against fire and casualty to the Closing Date and will also be adequately insured for personal liability and property damage (the "Policies"). Further, the Policies are and will be outstanding and duly enforced and the premiums to become due on the Policies to the Closing Date will be paid when due. Seller has not received any notice of any cancellation of the Policies.

**8.9 Taxes; Unemployment Liabilities; Tax Returns and Audits.** All taxes of any nature assessed against Seller which are attributable to KML are and will be fully paid by Seller when due through the Closing Date. Without limiting the generality of the foregoing, all sales and use and employee withholding taxes due and payable by Seller on or before the Closing Date have been or will have been paid or provided for by Seller, including any unemployment tax liability and any deficit balance in Seller's Michigan Unemployment Insurance Agency (MUIA) account.

Seller has filed, and as of the Closing Date will have filed, all taxes and reports required to be filed by Seller attributable to the operation of KML with all taxing authorities, including the Michigan Unemployment Insurance Agency. Seller does not have any outstanding or unsatisfied deficiency assessments with respect to any taxes, and there are no current audits or investigations by or disputes with any authority with respect to any taxes.

Seller is not involved in any dispute with any tax authority on the amount of taxes due, nor has Seller received any notice of any deficiency, audit, or other indication of deficiency from any tax authority not disclosed to the Parties to this Agreement.

**8.10 Licenses and Permits.** Seller presently possesses and will continue to possess at the Closing Date all governmental licenses, permits, certificates of inspection, other authorizations, filings, and registrations that are necessary for Seller to own and operate KML as presently conducted.

**8.11 Litigation or Insolvency Proceedings.** There are no actions, suits, claims, investigations, or legal, administrative, or arbitration proceedings pending or, to the best of Seller's knowledge, threatened or likely to be asserted by or against Seller which pertain to KML or which relate to the Purchased Assets, this Agreement, or the transactions contemplated by this Agreement. Further, Seller is not involved in any proceeding by or against Seller in any court under the Bankruptcy Code or any other insolvency or debtor's relief act, whether state or federal, or for the appointment of a trustee, receiver, liquidator, assignee, or other similar official.

**8.12 Labor Relations—Employees.** There are no collective bargaining agreements currently in effect between Seller and labor unions or organizations related to Seller's employees at KML, and there does not now exist and there has been no formal or informal request to the Seller for collective bargaining or for an employee election from any union or from the National Labor Relations Board (NLRB) with respect to KML.

**8.13 Termination of Employees.** As of the Closing Date, Seller will terminate or will have terminated all employees and will pay to all employees all wages, salaries, commissions, bonuses, benefit plan contributions, and other compensation. Buyer may, in its discretion, reemploy some or all of the employees on the day after the Closing Date.

**8.14 Compliance with Employment Laws.** As to KML, Seller is in compliance with all applicable federal, state, and local laws and regulations respecting employment and employment practices, terms, and conditions of employment and wages and hours, and further, as to KML, there are no unfair labor practice complaints against Seller pending before the NLRB and no such complaints have been threatened; there is no labor strike, dispute slowdown, or stoppage actually in progress or threatened against Seller; and no grievance or arbitration proceedings are pending and no such claim has been asserted.

Seller acknowledges that Buyer does not assume any employee benefits of Seller whatsoever, and Buyer shall have no obligation to provide employee benefits other than benefits Buyer shall agree to provide to its employees in the exercise of Buyer's sole discretion.

**8.15 Environmental Matters.** For purposes of this Section 8.15, the term "Hazardous Material" shall mean any toxic or hazardous waste or substance (including, without limitation, asbestos and petroleum products) regulated by applicable local, state, or federal environmental laws or regulations.



Buyer acknowledges receipt of a copy of a report titled, "Keweenaw Mountain Lodge - Copper Harbor Michigan - Asbestos Survey & Lead-Based Paint Sampling Report," prepared by U.P. Engineers and Architects of Houghton, Michigan in November 2006 which contains information pertaining to asbestos and lead-based paint at KML - the precise scope of which is unknown. Buyer further acknowledges that cleaning agents, lubricants, and fuels, including diesel fuels, and other paints, solvents, chemicals, and oil based products have been stored on or about the Real Estate in storage tanks and other containers and that Seller believes, but has not confirmed, that there may have been an underground storage tank on the property at one time.

There are no presently pending or threatened administrative or enforcement actions, investigations, compliance orders, claims, demands, actions, or litigation based on environmental laws or regulations or otherwise related to the presence of Hazardous Material, in, on, or under the Real Estate. Seller makes no other environmental representations or warranties.

**8.16 Conduct of Business.** From the date of the most recent Audit Report delivered by Seller to Buyer to the Effective Date, the business of KML has been (and until the Closing Date shall be) open and conducted by Seller in a normal and regular manner. In addition, Seller has not entered into any contract or commitment extending beyond the Closing, except normal commitments made in the ordinary course of business; modified the compensation or benefits payable to or to become payable by Seller to any officer, employee, or agent other than persons newly-hired during the 2018 season; encumbered any Purchased Assets; experienced any adverse change or any material damage, destruction, or loss affecting the Purchased Assets; nor entered into any agreement not in the ordinary course of business or agreed to do any of the foregoing.

**8.17 ERISA Plans.** Seller has no employee benefit plans now in effect for persons employed at KML that are subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

**8.18 No Undisclosed Regulatory Issues.** There are no known outstanding citations issued by any health, building, or other governmental agency, under the Occupational Safety and Health Act and/or under the Americans with Disabilities Act having jurisdiction over the operation of KML, including any claims of any violation of any federal, state, or local environmental statutes, regulations, ordinances, or other environmental regulatory requirements.

**8.19 Broker's or Finder's Fees.** No agent, broker, investment banker, person, or firm acting on behalf of Seller is or will be entitled to any broker's or finder's fees or any other commission or similar fee directly or indirectly from Seller in connection with the sale of the Purchased Assets contemplated by this Agreement.

**8.20 No Violation or Breach.** The performance of this Agreement will not be in violation of any laws, statutes, local ordinances, state or federal regulations, court or

administrative order, or ruling, nor is the performance of this Agreement in violation of any loan document's conditions or restrictions in effect for financing, whether secured or unsecured.

**8.21 Mechanic's Liens.** Seller has not been served with any notice of intent to claim a mechanic's lien on the Premises and states that all parties who have furnished labor or materials on or at the Premises within the last 90 days whether for repair, improvement, or otherwise have been fully compensated. Further, Seller has neither contracted for nor is liable for obligations related to repairs, services, and other items.

**8.22 Reliance.** The foregoing representations and warranties are made by Seller with the knowledge and expectation that Buyer is placing complete reliance on them.

EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 8, SELLER MAKES NO WARRANTY WHATSOEVER REGARDING THE PURCHASED ASSETS, INCLUDING ANY (1) WARRANTY OF MERCHANTABILITY; (2) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (3) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE. BUYER ACKNOWLEDGES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF, EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION 8 OF THIS AGREEMENT.

**9. Representations, Covenants, and Warranties of Buyer.** Buyer represents, covenants, and warrants the following to be true, which representations, covenants and warranties shall survive the Closing:

**9.1 Status of Buyer.** Buyer is a \_\_\_\_\_duly-organized, validly existing, and in good standing under the laws of the \_\_\_\_\_, and further, is properly authorized to enter into and carry out the transactions contemplated by this Agreement.

**9.2 Authority.** When executed, this Agreement and all related documents will be legal, valid, and binding obligations of Buyer.

**9.3 Awareness of Buyer.** Buyer acknowledges the following: During the marketing period, prior to the auction and before the execution of this Agreement, Buyer has been furnished the financial data and other data that Buyer considers necessary or advisable to enable Buyer to form a decision concerning the purchase of the Purchased Assets; Buyer has had an opportunity to examine the Purchased Assets and agrees to accept the same "as is"; Buyer has, either individually or through agents or employees of Buyer, sufficient knowledge, expertise, and financial capacity to operate KML, and further, Buyer is capable of evaluating the merits and risks of the purchase of the Purchased Assets.

**9.4 Litigation.** There are no actions, suits, or proceedings pending, or to Buyer's knowledge, threatened or likely to be asserted, against the Buyer, before any court, administrative agency, or other body, and no judgment, order, writ, injunction, decree, or other similar command of any court or governmental agency has been entered against or served on Buyer relating to this Agreement and/or the transactions contemplated by this Agreement.

**9.5 Insolvency Proceedings.** Buyer is not involved in any proceeding by or against Buyer in any court under the Bankruptcy Code or any other insolvency or debtor's relief act, whether state or federal, or for the appointment of a trustee, receiver, liquidator, assignee, or other similar official.

**9.6 Broker's or Finder's Fees.** No agent, broker, investment banker, person, or firm acting on behalf of Buyer is or will be entitled to any broker's or finder's fees or any other commission or similar fee directly or indirectly from Seller in connection with the sale of the Purchased Assets contemplated by this Agreement except for the following:

\_\_\_ No exceptions

\_\_\_ A broker participation of \_\_\_\_\_ to be paid from the Buyer's Premium to \_\_\_\_\_  
("Broker") pursuant to an agreement between Maas Companies, Inc. and the Broker.

No such broker's or finder's fees, commissions, or similar fees shall be the responsibility of Seller.

**9.7 MLCC Licenses.** Buyer acknowledges there are requirements of the MLCC associated with the transfer of the MLCC Licenses from Seller to Buyer. With respect to these transfers, Seller represents that it and its members, officers, and directors are fully qualified to have the MLCC Licenses transferred to Buyer. Buyer knows of no reason why Buyer would not be approved by the MLCC to receive the MLCC Licenses.

**9.8 Reliance.** The foregoing representations and warranties are made by Buyer with the knowledge and expectation that Seller is placing complete reliance on them.

**10. Seller's Right to Cancel.** Seller may cancel this Agreement at any time prior to Closing if it determines, in its sole discretion, that Buyer, or any person associated with Buyer, has committed or participated in any act, situation, or occurrence, which, in Seller's judgment, brings or may bring the Seller into public disrepute, contempt, scandal, or ridicule or that any person associated with Buyer has engaged in conduct offending prevailing social mores and values and/or reflecting unfavorably upon the County's reputation and overall mission and objectives, including but not limited to, acts of dishonesty, misrepresentation, fraud, or violence that may or may not rise to level of warranting criminal prosecution by the relevant authorities.

11. **No Contingency Regarding MLCC Licenses.** The Buyer and Seller shall work together in good faith to complete and submit a transfer application to the MLCC within five (5) business days of Closing. Seller shall also provide Buyer with assistance in applying to continue to operate KML while the transfer application is being reviewed. However, Buyer assumes the risk that the MLCC will not approve the transfer application, and this Agreement is not contingent on Buyer's obtaining approval by the MLCC of the transfer of the MLCC Licenses from Seller to Buyer.

12. **Possession.** Buyer shall receive operating control and possession of all of the Purchased Assets following the Closing.

13. **Notices.** All notices, requests, demands, waivers, consents, and other communications required or permitted by this Agreement shall be in writing and shall be deemed given to a Party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (with costs prepaid), (b) sent by facsimile or e-mail with confirmation of transmission by the transmitting equipment, or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses, facsimile numbers, or e-mail addresses and marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number, e-mail address, or person that a party may designate by notice to the other Parties):

**Seller:** Keweenaw County, Michigan  
Attention: Julie Carlson, County Clerk  
5095 4<sup>th</sup> Street  
Eagle River, MI 49950  
Fax No: (906) 337-2253  
E-mail address: clerk@keweenawcountymi.gov

with a copy to:  
Charles W. Miller, Keweenaw County Prosecuting Attorney  
5095 4<sup>th</sup> Street  
Eagle River, MI 49950  
Fax No: (919) 869-1911  
E-mail address: prosecutor@keweenawprosecutor.com

**Buyer:** \_\_\_\_\_  
Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

with a copy to:

Buyer Attorney:  
Address:

Fax no.: \_\_\_\_\_  
E-mail address: \_\_\_\_\_

**14. Indemnification by Seller.** Seller shall defend, indemnify, and hold harmless Buyer and Buyer's agents and employees, heirs, representatives, successors, and assigns from and against any and all costs, losses, claims, liabilities, fines, expenses, penalties, and damages (including reasonable legal fees) in connection with or resulting from all debts, liabilities, and obligations of Seller, whether accrued, absolute, contingent, known, unknown, or otherwise, arising from matters prior to Closing; any inaccuracy in any representation or breach of any warranty of Seller contained in this Agreement; and any failure by Seller to perform or observe in full, or to have performed or observed in full, any covenant, agreement, or condition to be performed or observed by the Seller under this Agreement.

**15. Indemnification by Buyer.** Buyer shall defend, indemnify, and hold harmless Seller and Seller's agents and employees, heirs, representatives, successors, and assigns from and against any and all costs, losses, claims, liabilities, fines, expenses, penalties, and damages (including reasonable legal fees) in connection with or resulting from all debts, liabilities, and obligations of Buyer, whether accrued, absolute, contingent, known, unknown, or otherwise arising from matters on and after Closing; any inaccuracy in any representation or breach of any warranty of Buyer contained in this Agreement; and any failure by Buyer to perform or observe in full, or to have performed or observed in full, any covenant, agreement, or condition to be performed or observed by the Buyer under this Agreement.

**16. Casualty and Condemnation.** In the event any of the Purchased Assets are materially damaged by casualty or a material portion of the Purchased Assets are taken or subject to pending or threatened condemnation prior to the Closing Date, Seller may elect to receive all casualty monies or condemnation proceeds, in which event, this Agreement shall be null and void. Should Seller elect not to receive the casualty monies or condemnation proceeds, the Buyer may, at its option (i) purchase the Purchased Assets and Seller shall transfer at Closing all insurance or condemnation proceeds received (together with an assignment of the right to receive any proceeds not yet paid) to Buyer, or (ii) elect not to purchase the Purchased Assets in which event this Agreement shall be null and void and Purchaser shall be entitled to the Deposit.

**17. Closing.** Closing shall be held at the offices of Keweenaw Title Company or at such other location as may be agreed to by the parties not later than forty-five (45) calendar days after the effective date of this Agreement (on or about September 10, 2018) or on an earlier date if Seller and Buyer shall mutually agree (the "Closing Date").

There will be no allocation of real estate taxes as the Real Estate has not been subject to real estate tax during its ownership by Seller.

Buyer shall pay the costs of recording the warranty deed, all transfer taxes and fees, any commissions or other amounts owed to any parties or persons that represented Buyer in

connection with the acquisition of the Purchased Assets, and the premium for any policy of title insurance Buyer wishes to obtain in connection with the purchase of the Real Estate.

If a participation fee is indicated in Section 9.6 of this Purchase Agreement, it shall be deducted from the Buyer's Premium and paid to the Broker. The balance of the Buyer's Premium shall be paid to Maas Companies, Inc. In addition, Maas Companies shall receive \$28,767.74 in marketing reimbursements from the sale proceeds, and reimbursement for travel expenses billed by Maas, not to exceed \$5,000.00 (unless such amounts have already been paid to Maas Companies, Inc., in which case the marketing reimbursements and travel expenses shall be paid to Keweenaw County).

Buyer and Seller shall share equally the charges of the title company for conducting the Closing. Buyer and Seller shall each pay their own attorney fees that they have incurred in connection with the purchase and sale of the Purchased Assets.

Twelve Thousand Four Hundred Dollars (\$12,400.00) shall be paid to Seller from the sale proceeds to reimburse Seller for the cost it incurred in obtaining a survey of the Real Estate and the Trail Easements.

The remainder of the net proceeds from sale shall be paid directly to the following federal government agencies in the following percentages: US Department of Agriculture – Rural Development (50.83%) and US Economic Development Administration (49.17%). in accordance with instructions to be provided by Rural Development and Economic Development.

## **18. Miscellaneous.**

**18.1 Amendment.** This Agreement shall not be amended, altered, or terminated except by a written instrument signed by both parties.

**18.2 Choice of Law.** This Agreement shall be governed in all respects by the laws of the State of Michigan. Venue for any lawsuit filed in connection with this Agreement shall only be proper in the Circuit Court for Keweenaw County in Keweenaw County, Michigan or the U.S. District Court for the Western District of Michigan in Marquette, Michigan.

**18.3 Entire Agreement.** This Agreement sets forth the entire understanding of the parties. This Agreement shall supersede and replace any oral or written statements or agreements relating to the subject matter of this Agreement.

**18.4 Waiver.** The waiver by either party of any breach or breaches of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of any provision of this Agreement.

**18.5 Binding Effect.** This Agreement, inclusive of its terms and provisions, shall survive the Closing and shall be binding on and inure to the benefit of, and be enforceable by, the respective heirs, legal representatives, successors, and assigns of the parties.

**18.6 Construction of Agreement.** Both parties and their respective legal counsel have reviewed and revised this Agreement and have had equal opportunity for input into this Agreement. Neither party nor their respective legal counsel shall be construed to be the drafter or primary drafter of this Agreement. In the event of any dispute regarding the construction of this Agreement or any of its provisions, ambiguities or questions of interpretation shall not be construed more in favor of one party than the other; rather, questions of interpretation shall be construed equally as to each party.

**18.7 Counterpart Execution; Facsimile Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all counterparts, when taken together, will constitute one and the same Agreement. The parties agree that signatures on this Agreement may be signed and delivered by facsimile or by electronic transmission, and the parties agree to treat facsimile or electronic signatures as original signatures which may be relied on to the same extent as the originals with the same binding legal effect as an original executed counterpart of this Agreement.

**18.8. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of Seller, Buyer, and their respective successors and assigns. It is acknowledged and agreed by Seller and Buyer that Buyer may, upon written notice to Seller, assign its right to purchase the Purchased Assets to a third party (“Assignee”) who shall purchase the Purchased Assets. In accordance with this acknowledgment, Seller agrees to execute and deliver all reasonable documentation required by Buyer and the Assignee to facilitate the purchase of the Purchased Assets by the Assignee and permit the Assignee to exercise Buyer’s rights hereunder.

The Parties have executed this Agreement on the following dates to be effective as of the Effective Date:

[Signatures on Following Page]

Dated: July 26, 2018

**KEWEENAW COUNTY**  
a Michigan Municipal Corporation

By: /s/ \_\_\_\_\_  
Donald Piche  
Chairman of the Keweenaw County Board  
of Commissioners

Dated: July 26, 2018

**BUYER:** \_\_\_\_\_

a \_\_\_\_\_

By: /s/ \_\_\_\_\_  
Name:  
Title:



**Exhibit 1.1**  
**Legal Description of the Real Estate**

A parcel of land being a part of the South Half (S ½) of Section 31, T59N, R28W, Grant Township, Keweenaw County, Michigan AND the North Half of Section 6, T58N, R28W, Grant Township, Houghton County, Michigan described as: Beginning at the Southeast corner of said Section 31, T59N, R28W and the Northeast corner of said Section 6, T58N, R28W thence S. 00° 17' 27" E. 1766.33 feet along the East line of said Section 6; thence N. 89° 10' 31" W. 4220.22 feet to a point on the Easterly right of way line of Highway U.S. 41 (33 feet from center line); thence along the Easterly right of way line of said Highway the following eight courses N. 00° 49' 59" W. 33.95 feet to the point of curvature of a curve to the Right (Radius = 1041.27 feet, Delta = 15° 36' 17", Chord Bears N. 07° 53' 20" E. 282.72 feet); thence along the arc of said curve to the Right 283.59 feet; thence N. 15° 41' 29" E. 604.59 feet to the point of curvature of a curve to the Left (Radius = 620.65 feet, Delta = 35° 53' 27", Chord Bears N. 02° 15' 15" W. 382.46 feet); thence along the arc of said curve to the Left 388.78 feet; thence N. 20° 11' 58" W. 242.73 feet to the point of curvature of a curve to the Right (Radius = 724.21 feet, Delta = 19° 14' 13", Chord Bears N. 10° 34' 52" W. 242.01 feet); thence along the arc of said curve to the Right 243.15 feet to point on the North line of said Section 6; thence S. 89° 35' 55" E. 167.06 feet along the North line of said Section 6 to a point on the Southeasterly right of way line of said Highway (200 feet from the center line) and to the point of curvature of a curve to the Right (Radius = 557.21 feet, Delta = 28° 09' 25", Chord Bears N. 12° 42' 25" E. 271.08 feet); thence along the arc of said curve to the Right 273.83 feet; thence N. 55° 56' 17" E. 183.29 feet; thence N. 88° 38' 15" E. 998.32 feet; thence S. 51° 39' 00" E. 552.02 feet; thence S. 85° 13' 53" E. 189.44 feet; thence S. 20° 26' 38" E. 50.49 feet to a point on the South line of said Section 31, thence S. 89° 23' 51" E. 2136.51 feet to the point of beginning of this description.

Said Property being shown as Parent Parcel #1 and Proposed Parcel "A" on Sheet #1 of a Certificate of Survey recorded in the records of the Keweenaw County Register of Deeds on July 14, 2017, Document No. 20170422, as amended by a Scrivener's Affidavit filed on August 23, 2017, Document No. 20170502.

**Exhibit 1.2**  
**Legal Description of the Trail Easements**

Those easements labeled and shown as Easement #1, Easement #2, and Easement #3 on Sheet #2 of of a Certificate of Survey recorded in the records of the Keweenaw County Register of Deeds on July 14, 2017, Document No. 20170422, as amended by a Scrivener's Affidavit filed on August 23, 2017, Document No. 20170502 and being described as follows:

EASEMENT #1: An easement being a part of the South Half (S ½) of Section 31, T59N, R28W, AND a part of the North Half (N ½) of Section 6, T58N, R28W, Grant Township, Keweenaw County, Michigan said easement being 15 foot wide lying 7.50 feet either side of the following described center line described as: Commencing at the Southeast corner of said Section 31, T59N, R28W, Grant Township, Houghton County, Michigan thence N. 89° 23' 51" W. 2136.51 feet along the South line of said Section 31 North Line of said Section 6; thence N. 20° 26' 38" W. 50.49 feet; thence N. 85° 13' 53" W. 155.82 feet to the point of beginning of this easement centerline; thence S. 73° 39' 24" W. 41.63 feet; thence S. 55° 51' 28" W. 64.49 feet; thence N. 78° 01' 59" W. 59.37 feet; thence S. 57° 43' 32" W. 45.34 feet; thence S. 33° 59' 08" W. 95.18 feet to the point of ending of this description. Said description is intended to end at the Easterly right of way line of Golf Course Road.

EASEMENT #2: An easement being a part of the North Half (N ½) of Section 6, T58N, R28W, Grant Township, Keweenaw County, Michigan said easement being 15 foot wide lying 7.50 feet either side of the following described center line described as: Commencing at the Northeast corner of said Section 6, T58N, R28W, Grant Township, Houghton County, Michigan thence S. 00° 17' 27" E. 1381.44 feet along the East line of said Section 6 to the point of beginning of this easement centerline; thence N. 81° 39' 16" W. 69.33 feet; thence N. 87° 48' 05" W. 56.02 feet; thence N. 71° 26' 27" W. 47.28 feet; thence S. 70° 46' 17" W. 67.77 feet; thence S. 02° 53' 36" W. 31.52 feet; thence S. 18° 59' 48" W. 22.49 feet; thence S. 77° 06' 19" W. 54.92 feet; thence S. 57° 31' 07" W. 41.94 feet; thence S. 64° 52' 51" W. 119.68 feet; thence S. 69° 01' 52" W. 97.55 feet; thence N. 65° 07' 10" W. 110.08 feet; thence N. 87° 53' 19" W. 68.98 feet; thence N. 72° 57' 33" W. 57.87 feet; thence S. 70° 15' 29" W. 106.55 feet; thence N. 73° 29' 07" W. 51.78 feet; thence S. 78° 12' 31" W. 99.12 feet; thence S. 42° 45' 15" W. 45.48 feet; thence S. 73° 07' 24" W. 74.61 feet; thence N. 76° 15' 19" W. 28.94 feet; thence S. 68° 47' 30" W. 31.98 feet; thence N. 52° 22' 36" W. 25.94 feet; thence S. 76° 46' 26" W. 68.32 feet; thence S. 80° 26' 14" W. 92.62 feet; thence S. 63° 00' 02" W. 74.41 feet; thence S. 76° 03' 56" W. 127.92 feet; thence N. 75° 28' 17" W. 39.06 feet; thence S. 80° 02' 37" W. 157.07 feet; thence N. 82° 12' 57" W. 82.35 feet; thence N. 66° 44' 37" W. 68.88 feet; thence S. 88° 15' 41" W. 167.88 feet; thence N. 69° 53' 00" W. 51.49 feet; thence N. 37° 13' 10" W. 66.50 feet; thence N. 60° 08' 24" W. 72.52 feet; thence N. 36° 48' 36" W. 47.55 feet to the point of ending of this description. Said description is intended to end at the Easterly right of way line of Golf Course Road.

EASEMENT #3: An easement being a part of the North Half (N ½) of Section 6, T58N, R28W, Grant Township, Keweenaw County, Michigan said easement being 15 foot wide lying 7.50 feet either side of the following described center line described as: Commencing at the Northeast corner of said Section 6, T58N, R28W, Grant Township, Houghton County, Michigan thence S. 00° 17' 27" E. 1766.33 feet along the East line of said Section 6; thence N. 89° 10' 31" W. 2655.87 to the point of beginning of this easement centerline; thence N. 75° 06' 07" E. 107.69 feet; thence S. 85° 23' 11" E. 38.22 feet; thence N. 84° 58' 39" E. 100.03 feet; thence N. 84° 24' 20" E. 308.74 feet; thence N. 51° 02' 28" E. 14.02 feet; thence N. 74° 52' 35" W. 65.98 feet; thence N. 24° 03' 20" W. 55.43 feet; thence N. 78° 47' 19" W. 80.48 feet; thence N. 67° 12' 32" E. 77.51 feet to the point of ending of this description.

**Exhibit 1.3**  
**Historic Preservation Easement**

**HISTORIC PRESERVATION EASEMENT**

**KEWEENAW MOUNTAIN LODGE AND GOLF COURSE COMPLEX,  
TOWNSHIP OF GRANT, KEWEENAW COUNTY MICHIGAN**

This historic preservation easement (the "Easement") is made the \_\_\_ day of \_\_\_\_\_ 2018 between KEWEENAW COUNTY as GRANTOR of a historic preservation easement (hereafter referred to as the "Grantor") whose address is 5095 4<sup>th</sup> Street, Eagle River, MI 49950, and the MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY, a principal state department acting through its STATE HISTORIC PRESERVATION OFFICE ("SHPO" or "Grantee"), whose address is 735 East Michigan Ave., Lansing, Michigan, 48912. The Grantor is the recipient of a 2007 Community Facility Grant Award from the United States Department of Agriculture, Rural Housing Service (USDA). The consideration for this Easement totals Ten thousand dollars (\$10,000) received from the USDA with the condition of granting this Easement to the Grantee.

The property that is the subject to this Easement is the Keweenaw Mountain Lodge and Golf Course Complex, as described below (the "Property"), is listed in the National Register of Historic Places (the "National Register"). The Property is a parcel of land located in Grant Township, Keweenaw County, Michigan, and is more particularly described as:

A parcel of land being a part of the South Half (S ½) of Section 31, T59N, R28W, Grant Township, Keweenaw County, Michigan AND the North Half of Section 6, T58N, R28W, Grant Township, Houghton County, Michigan described as: Beginning at the Southeast corner of said Section 31, T59N, R28W and the Northeast corner of said Section 6, T58N, R28W thence S. 00° 17' 27" E. 1766.33 feet along the East line of said Section 6; thence N. 89° 10' 31" W. 4220.22 feet to a point on the Easterly right of way line of Highway U.S. 41 (33 feet from center line); thence along the Easterly right of way line of said Highway the following eight courses N. 00° 49' 59" W. 33.95 feet to the point of curvature of a curve to the Right (Radius = 1041.27 feet, Delta = 15° 36' 17", Chord Bears N. 07° 53' 20" E. 282.72 feet); thence along the arc of said curve to the Right 283.59 feet; thence N. 15° 41' 29" E. 604.59 feet to the point of curvature of a curve to the Left (Radius = 620.65 feet, Delta = 35° 53' 27", Chord Bears N. 02° 15' 15" W. 382.46 feet); thence along the arc of said curve to the Left 388.78 feet; thence N. 20° 11' 58" W. 242.73 feet to the point of curvature of a curve to the Right (Radius = 724.21 feet, Delta = 19° 14' 13", Chord Bears N. 10° 34' 52" W. 242.01 feet); thence along the arc of said curve to the Right 243.15 feet to point on the North line of said Section 6; thence S. 89° 35' 55" E. 167.06 feet along the North line of said Section 6 to a point on the Southeasterly right of way line of said Highway (200 feet from the center line) and to the point of curvature of a

curve to the Right (Radius = 557.21 feet, Delta = 28° 09' 25", Chord Bears N. 12° 42' 25" E. 271.08 feet); thence along the arc of said curve to the Right 273.83 feet; thence N. 55° 56' 17" E. 183.29 feet; thence N. 88° 38' 15" E. 998.32 feet; thence S. 51° 39' 00" E. 552.02 feet; thence S. 85° 13' 53" E. 189.44 feet; thence S. 20° 26' 38" E. 50.49 feet to a point on the South line of said Section 31, thence S. 89° 23' 51" E. 2136.51 feet to the point of beginning of this description.

Said Property being shown as Parent Parcel #1 and Proposed Parcel "A" on Sheet #1 of a Certificate of Survey recorded in the records of the Keweenaw County Register of Deeds on July 14, 2017, Document No. 20170422, as amended by a Scrivener's Affidavit filed on August 23, 2017, Document No. 20170502.

This Easement is executed consistent with Subpart 11 of Part 21 of Article 1, Conservation and Historic Preservation Easements of the Michigan Environmental Protection Act, MCL 324.2140 *et seq.* and is subject to the following conditions and covenants:

- (1) The purpose of this Easement is to protect the existing improvements on the Property, namely the original mountain lodge building/club house (with its kitchen, bar, dining, seating, sales, office, and porch areas), the golf course, cabins constructed in the 1930(s), and the conference center added to the original mountain lodge building with SHPO's approval between 2006-2007 (the "Existing Improvements").
- (2) This Easement does not apply to the motel, the maintenance buildings and outbuildings on the Property (the "Noncontributing Buildings"). Alteration, rehabilitation and demolition of the Noncontributing Buildings may be undertaken without the consultation or permission of the SHPO, its successors or assigns.
- (3) Grantor covenants on behalf of itself, its heirs, successors and assigns that the Owner of the Property will restore, maintain and preserve the Existing Improvements in accordance with the recommended approaches of the U.S. Secretary of Interior's *Standards for the Treatment of Historic Properties*, 36 CFR 67-68 (the "Secretary's Standards") in order to preserve those qualities that made the Property eligible for listing on the National Register.
- (4) No construction, alteration or rehabilitation to the Existing Improvements, nor any new construction to the Property shall be undertaken or permitted to be undertaken that would affect the historic features or historic character of the Existing Improvements without consultation with and the express permission of the SHPO, its successors or assigns; provided, however, in the event a written request is not approved by SHPO within thirty (30) days after written submission, such construction, alteration or rehabilitation may be undertaken in accordance with the recommended approaches of the Secretary's Standards. So long as the Owner of the Property does not permit any building or improvement to be constructed or exist on the Property at a height greater than the present roof of the Lodge building, expansion of the existing golf course

into the eastern portion of the Property shall not be deemed to affect the historic features or character of the Existing Improvements.

- (5) Development of the eastern portion of the Property shall be restricted to that parcel of land that is located beyond the easternmost point of Golf Course Road, except for expansion of the existing golf course into the eastern portion of the Property, which shall not be restricted. All plans for any construction improvement on the eastern portion of the Property shall first be presented to the SHPO for review and comment before commencement of any construction. The Owner of the Property shall not permit any building or improvement to be constructed or exist on the Property at a height greater than the present roof of the Lodge building.
- (6) The SHPO shall be permitted at all reasonable times to inspect the Property in order to ascertain if the above conditions are being met.
- (7) In the event of a violation of this Easement, and in addition to any current or future remedy provided by law, the SHPO may, following reasonable notice to the Owner of the Property, institute suit to enjoin the violation or to require the restoration of the Existing Improvements, obtain specific performance, and pursue other remedies provided by law.
- (8) This Easement is binding on the Grantor and its heirs, successors and assigns in perpetuity. All stipulations and covenants within this document shall be inserted by the Grantor verbatim or by express reference in any deed or other legal instrument by which the Grantor divests itself of any interest or any part interest in the Property.
- (9) Failure of the SHPO to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or use of such right or remedy at any other time.
- (10) This Easement shall be a binding servitude upon the Property and shall be deemed to run with the land. Grantor further agrees to promptly and properly record this Easement in the Register of Deeds' Office in the county in which the Property is located. Execution of this Easement shall constitute conclusive evidence that the Grantor agrees to be bound by the foregoing conditions and restrictions and agrees to perform the obligations as described within this Easement.
- (11) The Owner of the Property shall bear all costs necessary to preserve the historic integrity of the features, materials, appearance, workmanship and environment of the Existing Improvements pursuant to the U.S. Secretary of the Interior's *Standards for the Treatment of Historic Properties*, 36 CFR 67-68. Nothing in this Easement prohibits the Owner of the Property from seeking financial assistance from any other source for additional preservation efforts.
- (12) The Owner of the Property shall bear all costs of the continued maintenance and repair of the Property so as to keep it in a sound state of repair, prevent

deterioration and preserve the architectural and historical, and archaeological integrity of the Property and enhance those qualities that make the Property eligible for listing in the National Register of Historic Places.

- (13) Any visual or structural alterations to the Property shall be made in accordance with the recommended approaches in the U.S. Secretary of the Interior's *Standards for the Treatment of Historic Properties*, 36 CFR 67-68, and no visual or structural alterations will be made to the Property without prior written permission from the Grantee, its successors or assigns, which shall not be unreasonably withheld.
- (14) The Owner of the Property will provide public access to the Existing Improvements no less than twelve (12) days each calendar year so that the general public can view the Existing Improvements. The days the Existing Improvements are available to the public will be equitably spaced. The Owner of the Property may take into account seasonal and other factors that will most effectively afford public access.
- (15) The Owner of the Property may charge a reasonable nondiscriminatory admission fee to the public that is comparable to fees charged at similar facilities in the area. The Owner of the Property will not discourage public visitation of the Property during the time public access is required in accordance with the preceding paragraph of this Easement.
- (16) The Owner of the Property shall comply with the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq.*, and all other state, federal and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Easement with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any other matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Owner of the Property agrees to include in every subcontract entered into for the performance of its obligations under this Easement this same covenant not to discriminate in employment.
- (17) The Owner of the Property must comply with the Americans with Disabilities Act and with Section 504 of the Rehabilitation Act when interior public access is required at least twelve (12) days per calendar year. The Owner of the Property is not required to make every part of the Property accessible to and useable by disabled persons by means of physical alterations. During public access periods, videos, slide presentations and/or other audio-visual media should be used to depict otherwise inaccessible areas or features. The intent of this paragraph is to communicate that the preservation/accessibility issue must

be addressed and that the solution is to take careful steps to determine what can be done to improve access without sacrificing historic fabric.

- (18) If the Owner of the Property leases the Property, the Owner of the Property covenants to incorporate into the lease all of the terms, conditions and covenants of this Easement.
- (19) The Grantor acknowledges that the Grantee, after providing written notice to the Owner of the Property, may institute action(s) to enjoin violations of this Easement, to require specific performance, and to require restoration of the Property in conformity with the U.S. Secretary of the Interior's *Standards for the Treatment of Historic Properties*, 36 CFR 67-68. The Grantee has available to it all legal and equitable remedies to enforce Grantor's obligations under this Easement. If the Owner of the Property is found by a court of competent jurisdiction to have violated any of its obligations, the Owner of the Property shall reimburse the Grantee for all costs and expenses incurred in connection with the Grantee's enforcement of the terms of this Easement, including but not limited to all court costs, attorney's fees, architectural fees, engineering and expert witness fees.
- (20) The SHPO may, for good cause, modify or cancel any or all of the foregoing restrictions upon application of the Grantor, its heirs, successors or assigns. The SHPO reserves the right to assign its responsibilities under this Easement to a third party that may be, but is not limited to, another government entity or non-profit organization.
- (21) This Easement will be interpreted in accordance with the laws of the State of Michigan. If any provision of this document or future amendment to this document is found to be illegal or otherwise unenforceable by a court of competent jurisdiction, such provision shall be severed and such action will not affect the enforceability of the remaining provisions of this Easement.

**This Easement shall be binding upon the Property and shall be deemed to run with the land. Execution and recording of this Easement in the Keweenaw County Register of Deeds' Office shall constitute conclusive evidence that the Grantor agrees to be bound by the foregoing conditions and restrictions and agrees to perform the obligations as described within this Easement.**

IN WITNESS WHEREOF, the Grantor subscribes its name on the date set forth below:



**GRANTOR:**  
KEWEENAW COUNTY

\_\_\_\_\_  
By: Donald Piche, Chairman  
Keweenaw County Board of Commissioners

Date: \_\_\_\_\_

**Exhibit 1.4**  
**Personal Property and Intangibles Being Sold**

The Personal Property referred to in the Agreement consists of the following:

- a. The fixtures and personal property listed in the capital asset listing for the Keweenaw Mountain Lodge as of December 31, 2017 and any personal property acquired by the Keweenaw Mountain Lodge during 2018, except for tractors and tractor accessories; motor vehicles, construction equipment; and items of personal property and possessions of Seller that are not and have not been a part of the operation of KML;
- b. Any food, beverages, golf products, souvenir items, spare parts, cleaning supplies, and other supplies and inventory items present at KML on the Closing Date;
- c. A Resort Class C liquor license and an SDM liquor license issued by the Michigan Liquor Control Commission, Nos. 182951 and 182952, respectively; and
- d. Pre-paid advertising.

The Personal Property referred to in the Agreement excludes cash, cash equivalents; accounts receivable; prepaid expenses; prepaid taxes; and lease deposits (except that deposits pertaining to any leases being assigned by Seller shall also be assigned); insurance policies and rights under insurance policies; personnel records and other records that are required by law to be retained; and accounting records.

The Intangibles referred to in the Agreement consist of goodwill, trademarks, trade names, domain names, website content, and other intellectual property.