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KITTITAS COUNTY
THIS AGREEMENT
CDS

GROUNDWATER MITIGATION AGREEMENT

THIS AGREEMENT is made and entered into effective the 30 day of April, 2010, between: CDS

Seller: Suncadia, LLC	Buyer: Arastou Monjaze
Address: 4244 Bullfrog Road, Suite 1 P.O. Box 1 Cle Elum, WA 98922	Address: 605 Evergreen Point Rd Medina, WA 98039

1. RECITALS

1.1 Suncadia owns surface water rights from the Yakima River, which are described in Exhibit A and referred to in this Agreement as the "Suncadia Trust Water Rights." Suncadia has received approval from the Washington State Department of Ecology ("Ecology") to transfer the Suncadia Trust Water Rights to the State Trust Water Program, to be used for water banking purposes under Chapter 90.42 RCW. The Suncadia Trust Water Rights can be used to provide mitigation for consumptive water uses associated with domestic water use and incidental irrigation for lawn and noncommercial garden use ("Consumptive Water Use").

1.2 Buyer owns real property in Kittitas County, Washington, legally described in Exhibit B and referred to in this Agreement as "Buyer's Property." Buyer desires to obtain mitigation for Consumptive Water Use impacts associated with the development of Buyer's Property.

1.3 Suncadia is willing to provide mitigation for Consumptive Water Use on Buyer's Property, as provided in this Agreement.

2. AGREEMENT

IN CONSIDERATION of the foregoing and the performance of mutual covenants herein, the parties agree as follows:

2.1 **Mitigation Water Supply.** -- Suncadia agrees to sell to Buyer, and Buyer agrees to purchase from Suncadia, a beneficial interest in a portion of Suncadia's Trust Water Rights, as mitigation for Consumptive Water Use impacts associated with development of Buyer's Property, under the terms and conditions provided under this Agreement. Buyer requests and Suncadia agrees to provide Consumptive Water Use mitigation as follows:

- _____ Residential units, connected to an approved sewer system
- 14 Residential units, connected to an approved septic system
- 7,000 Square feet of lawn or noncommercial garden

2.2 **Purchase Price.** -- As consideration for the Groundwater Mitigation Certificate provided to Buyer under this Agreement, Buyer agrees to pay to Suncadia the sum of seventy-nine thousand eight hundred and 00/100 dollars (\$79,800.00) ("Purchase Price").

2.3 **Payment of Purchase Price.** -- Buyer shall, within five (5) business days from execution of this Agreement, deposit a down payment in the amount of twenty percent (20%) of the Purchase Price in an escrow account with AmeriTitle, Inc., either at its Cle Elum office, located at 127 E. 1st Street, Cle Elum, Washington, or its Ellensburg office, located at 101 W. 5th Ave, Ellensburg, Washington ("AmeriTitle"). The down payment shall be refundable to Buyer if Ecology denies Buyer's request for a Water Budget Neutral Determination or Water Right Permit, but is not

otherwise refundable to Buyer. Buyer shall deposit the balance of the Purchase Price into the escrow account no later than seven (7) calendar days prior to closing.

2.4 Groundwater Mitigation Certificate. -- No later than seven (7) calendar days prior to closing as provided under this Agreement, Suncadia will deliver to escrow a "Groundwater Mitigation Certificate", which demonstrates the availability of mitigation for the contemplated Consumptive Water Use on Buyer's Property as provided in this Agreement. The Groundwater Mitigation Certificate will be in a form that is suitable for recording with the County Auditor. The Groundwater Mitigation Certificate will remain appurtenant to the Buyer's Property and title to the Groundwater Mitigation Certificate will run with the land. The Groundwater Mitigation Certificate cannot be transferred to another place of use or point of withdrawal without Suncadia's prior written consent.

2.5 Closing. -- Closing shall take place in the offices of AmeriTitle, no later than thirty (30) calendar days from the date Ecology conditionally approves Buyer's application for a Water Budget Neutral Determination or Water Right Permit. At closing, the Groundwater Mitigation Certificate will be delivered from escrow to Buyer, and the balance of the Purchase Price, after costs, shall be delivered from escrow to Suncadia. Promptly after the closing, AmeriTitle shall cause the Groundwater Mitigation Certificate to be recorded in Kittitas County and after recording, the recorded Groundwater Mitigation Certificate shall be forwarded to Buyer. Except as otherwise provided in this Agreement, sale of the Groundwater Mitigation Certificate is without recourse after closing. Any proceeds remaining in escrow that are not otherwise refundable to Buyer will be disbursed to Suncadia if closing does not occur within one hundred eighty (180) calendar days after the date of this Agreement.

2.6. Costs. -- Buyer will pay all closing costs except fifty percent (50%) of the escrow fee, which will be paid by Suncadia from the sale proceeds. Costs to be paid by Buyer include but are not limited to Washington State and Kittitas County real estate excise taxes, County and State permit processing fees (if applicable), title research fees, fifty percent (50%) of the escrow fee, document preparation and processing fees, recording fees, and costs associated with participation under the Bureau of Reclamation/Department of Ecology water exchange contract. Buyer will be responsible for all costs associated with seeking approval from Ecology for a Water Budget Neutral Determination or Water Right Permit, and for a Water Availability Determination and Well Site Inspection/Well Site Review from Kittitas County, if required. A good-faith estimate of closing costs is attached to this Agreement as Exhibit C and incorporated by reference.

2.7 Conditions. -- Notwithstanding any other provision of this Agreement, the obligations of the parties under this Agreement are contingent on conditional approval by Ecology for a Water Budget Neutral Determination or a Water Right Permit for the contemplated Consumptive Water Use on Buyer's Property, and approval by Kittitas County for a Water Availability Determination and Well Site Inspection/Well Site Review, if required.

2.8. Buyer's Obligations. -- No later than fourteen (14) calendar days after the date of execution of this Agreement, Buyer shall apply to Ecology for approval of a Water Budget Neutral Determination or a Water Right Permit for the contemplated Consumptive Water Use on Buyer's Property. Buyer and Suncadia shall cooperate in good faith and in every proper and legal way to seek Ecology approval for Buyer's application.

After closing Buyer and its heirs, personal representatives, assigns and other successors-in-interest shall utilize Consumptive Water Use for which mitigation is provided under the Groundwater Mitigation Certificate only on Buyer's Property and in a manner consistent with Buyer's ownership of a Groundwater Mitigation Certificate as provided under this Agreement.

2.9. Property Inspection. -- During the term of this Agreement, and prior to final approval by Ecology of a Water Budget Neutral Determination or a Water Right Permit for the contemplated Consumptive Water Use on Buyer's Property, Suncadia and its employees,

representatives, and agents shall have the right to enter upon Buyer's Property for purposes of inspection of any existing or proposed well location and other water uses on Buyer's Property.

2.10. Buyer's Representations and Warranties. -- Buyer represents and warrants to Suncadia that Buyer has made, or will have made by closing of escrow, such independent investigation of the groundwater mitigation (provided to Buyer under this Agreement or other authorization) that Buyer deems necessary or appropriate to determine the suitability, fitness and/or adequacy of such groundwater mitigation for Buyer's intended Consumptive Water Use on Buyer's Property. Buyer agrees it will not use water on Buyer's Property exceeding the amount for which groundwater mitigation is provided pursuant to this Agreement or to which Buyer is otherwise authorized to use under state law or contract.

2.11. Setbacks and Buffers. -- Buyer will agree to develop groundwater for Buyer's Property in a manner that complies with all applicable wellhead protection, wetland and riparian habitat buffers.

2.12. Suncadia's Escrow Disclosure. -- AmeriTitle is the escrow agent for this transaction. Suncadia hereby discloses to Buyer that AmeriTitle is owned by JELD-WEN, Inc., which also is a part owner of Suncadia, LLC. Suncadia wants to call this to the Buyer's attention in order to be perfectly fair and open. Suncadia does not believe that the common ownership interest will prevent Suncadia or AmeriTitle from being fair and impartial with Buyer. Nevertheless, Buyer may request that this transaction be closed by some other licensed escrow agent, if desired.

2.13. Suncadia Representations and Warranties. -- The only representations, agreements and warranties made by Suncadia are those set forth in writing in this Agreement. **EXCEPT FOR THE REPRESENTATIONS, AGREEMENTS AND WARRANTIES SET FORTH IN THIS AGREEMENT, SUNCADIA MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE SUITABILITY OR FITNESS OF THE GROUNDWATER MITIGATION PROVIDED UNDER THIS AGREEMENT FOR ANY PURPOSE.**

3. GENERAL PROVISIONS

3.1 Entire Agreement. -- This Agreement contains the entire agreement between Suncadia and Buyer with respect to the subject matter contained herein. There are no agreements, promises, assurances, representations, warranties, undertakings or understandings, either written or oral, between the parties other than those set forth in this Agreement.

3.2 Severability. -- The provisions of this Agreement are severable. If any provision is held to be invalid or unenforceable, it shall be enforced to the fullest extent allowed by law in that and other contexts, and the validity and force of the remainder of this Agreement shall not be affected thereby.

3.3 Indemnification. -- The parties agree to indemnify and hold each other and their respective officers, employees and agents harmless from any claims of third parties for acts or omissions of either party arising under or related to this Agreement.

3.4 Assignment. -- This Agreement is binding on and accrues to the benefit of Suncadia and the Buyer and their respective successors and assigns. The Buyer may not assign its interest in this Agreement without Suncadia's prior written consent.

3.5 Default. -- If, after expiration of any rescission right period provided for by law, Buyer breaches any covenant or condition contained in this Agreement, the Deposit shall be forfeited to Suncadia as the sole and exclusive remedy available to Suncadia for the default. Suncadia and the Buyer agree that Escrow Agent shall deliver such amount to Suncadia as liquidated damages and not as a penalty.

3.6 Notice. -- Notices under this Agreement shall be in writing directed to the other party at the address shown above, and shall be effective, unless otherwise provided by law, (i) if mailed,

on the third day after deposit as registered or certified mail, postage prepaid, (ii) if sent by overnight delivery using a nationally recognized courier service, one business day after deposit with such courier, (iii) if sent by facsimile, upon confirmed transmission to the address, or (iv) if sent by personal delivery, upon receipt by the addressee. Either party may change its address for notices by at least five days' advance written notice to the other.

3.7 Prohibition Against Recordation. -- Buyer shall not cause or allow this Agreement, or a short form memorandum or an assignment of this Agreement to become public record without Seller's prior written consent, which consent may be withheld by Seller in its sole discretion.

3.8 Survival. -- All warranties and representations contained in this Agreement shall survive closing and the execution and delivery of any documents at the Closing date, and shall not be merged into any document delivered by Suncadia or Buyer at the Closing Date. All provisions which contemplate performance after the Closing Date, shall survive termination of this Agreement and the Closing Date, and shall not be so merged.

3.9 Amendment. -- This Agreement may be amended only by an instrument in writing signed by both parties. No changes, alterations or modifications hereto shall be effective unless made in writing and signed by both parties.

3.10 Waiver. -- If either party fails to exercise its rights under this Agreement, it shall not be precluded from subsequent exercise of its rights. A failure to exercise rights shall not constitute a waiver of any other rights under this Agreement.

3.11 Governing Law. -- This Agreement shall be governed and enforced under the laws of the State of Washington. Venue for any action arising under or related to this Agreement shall lie in Kittitas County, Washington.

In witness of the foregoing provisions, the parties have signed this Agreement below:

Buyer

Suncadia

ArastouMonjazeb

By: Suncadia, LLC,
a Delaware limited liability company

By: Easton Ridge Investors, LLC,
a Delaware limited liability company
Its Managing Member

By: _____

By: _____

Name: ArastouMonjazeb

Name: Paul Eisenberg
Title: Senior Vice President

Date:

Date:

By: _____

By: _____

Name:

Name: Gary Kittleson
Title: Vice President

Date:

Date:

EXHIBIT A -- SUNCADIA TRUST WATER RIGHTS

Name: Suncadia LLC (former MTA Holdings, LLC
(Anderson))

Water Right Number: Court Claim 05259

Name: Suncadia LLC (former Anderson Development
Properties, LLC (Anderson))

Water Right Number: Court Claim 00626

EXHIBIT B – BUYER'S REAL PROPERTY

Lot E (B35/P42) a portion of W1/2 of Section 21, Township 21 North, Range 14 E.W.M., Kittitas County, State of Washington.

Kittitas County Parcel No. 12048

EXHIBIT C – GOOD FAITH ESTIMATE OF CLOSING COSTS

Groundwater Mitigation Cost Estimate

Summary of Buyer's Transaction

Purchase Price		\$ 79,800.00
Closing Costs		
Escrow Fee (50% paid by Buyer, 50% by Suncadia)	\$ 175.50	
Document Preparation Fee	300.00	
Title Research Fee	250.00	
County Recording Fees	134.00	
Real Estate Excise Tax	1,220.94	
Excise Tax Affidavit Filing Fee	5.00	
County Well Site Fee ³¹	200.00	
Agency Processing/Presentation Fee ³²	500.00	
Ecology/USBR Exchange Contract Fee ³³	820.68	
		<hr/>
Total Closing Costs		3,606.12
		<hr/>
Total Purchase Price and Closing Costs		\$83,406.12

³¹ Kittitas County's Water Availability Fee ranges from \$ 50.00 to \$200.00, depending on whether the applicant is required to apply for a Well Site Review (individual well) or Well Site Inspection (public water system or individual well in "yellow zone").

³² Includes the cost of preparation/presentation of Buyer's application for Well Site Review/Well Site Inspection (filed with Kittitas County) and Buyer's application for Water Budget Neutral Determination (filed with Department of Ecology). Fees may be higher, for example, if prospective water user(s) apply for Ecology Water Right Permit.

³³ The Bureau of Reclamation charges \$22.00 per acre foot of water per year for water assigned to the Bureau of Reclamation-Department of Ecology Exchange Contract, for the remainder of the contract term (i.e., 39 years).