

## PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “Agreement”) dated as of February 1, 2023 (the “Agreement Date”) is between TDK HOLDINGS, LLC, a Colorado limited liability company (the “Seller”), and the TOWN OF CASTLE ROCK, a Colorado home rule municipality, acting by and through the CASTLE ROCK WATER ENTERPRISE (the “Buyer”).

### RECITALS

WHEREAS, Seller owns water rights and contractual rights associated with the former Deer Creek Golf Course in Jefferson County, Colorado, a portion of which are more fully described and defined in this Agreement.

WHEREAS, Buyer desires to acquire additional water and water rights and, to that end, Buyer seeks to acquire the Water Rights.

WHEREAS, Seller is willing to sell the Water Rights to Buyer and Buyer is willing to purchase the Water Rights on and subject to the terms and conditions in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

### AGREEMENT

1. **Water Rights Defined.** As used in this Agreement, the term “Water Rights” means the water rights described in **EXHIBIT A**, attached hereto and incorporated herein by this reference, which are located in Jefferson County, Colorado.

2. **Agreement to Purchase.** Buyer agrees to purchase from Seller and Seller agrees to sell to Buyer the Water Rights on and subject to the terms and conditions provided herein.

3. **Purchase Price.** The purchase price for the Water Rights will be Forty-Five Thousand Dollars (\$45,000) per Acre Foot (“AF”) of historical consumptive use water quantified in Case No. W-7390, District Court for Water Division 1, for a total purchase price of Two Million Seven Hundred Thousand Dollars (\$2,700,000.00) for the sixty (60) AF quantified in Case No. W-7390 (the “Purchase Price”).

4. **Payment of Purchase Price; Earnest Money Deposit.** The Purchase Price will be paid by Buyer to Seller in full, adjusted for the Closing Adjustments as set forth in this Agreement, in cash or by wire transfer or other immediately available funds at Closing (defined below). Within ten (10) business days after the Agreement Date, Buyer shall tender the sum of One Hundred Thousand Dollars (\$100,000.00) to Land Title Guarantee Company (the “Title Company”) as escrow holder, for deposit into an interest-bearing account. This deposit, once made, together with any interest earned thereon, is collectively referred to as the “Earnest Money.” Title Company’s receipt of the Earnest Money shall be acknowledged by its execution of this

Agreement or a separate escrow Agreement with Seller and Buyer. At Closing, the Earnest Money will be paid to Seller as a part of the Purchase Price.

**5. Water Rights Opinion.**

(a) Issuance of Opinion. Within thirty (30) calendar days after the Agreement Date, Seller shall furnish to Buyer, at Seller's sole expense, a water rights title opinion from Hamre Rodriguez Ostrander & Prescott, P.C., on which the Town may expressly rely ("Water Rights Opinion"). The Water Rights Opinion shall state that Seller has good and marketable title to the Water Rights free of all liens and encumbrances, or identify those liens and encumbrances or other title matters that must be cleared at or prior to Closing. As part of the Water Rights Opinion, Seller shall provide electronic copies of all information reviewed by the attorney.

(b) Changes to Opinion. Buyer shall have seven (7) calendar days after Buyer's receipt of the Water Rights Opinion or any amendment thereto to notify Seller of any objections to any items impacting marketable title to the Water Rights ("Water Title Objection Notice"). Any items impacting marketable title to the Water Rights that are not objected to within the seven (7) calendar day period will be deemed approved by Buyer.

(c) Seller's Rights. Seller shall have until seven (7) calendar days after receipt of Buyer's Water Title Objection Notice ("Seller's Water Title Cure Period") to elect, at its sole option and discretion, to (i) cure any or all items to which Buyer has objected, (ii) cause such items to be modified in a manner which is satisfactory to Buyer, or (iii) not to cure any or all such items.

(d) Buyer's Rights. Within seven (7) calendar days of the expiration of Seller's Water Title Cure Period, if Seller fails to cure to the satisfaction of Buyer any objection in the Water Title Objection Notice, or elects not to cure, then Buyer may elect, as its exclusive remedy with respect to the objections in the Water Title Objection Notice, either to: (i) waive the objections by written notice to Seller and proceed to Closing, or (ii) terminate this Agreement by giving written notice to Seller. If Buyer terminates the Agreement, the Earnest Money will be returned to Buyer, and thereafter the parties will have no further rights and will be released from all obligations hereunder other than those rights and obligations that expressly survive termination of this Agreement. If Buyer fails to give timely notice of termination or if Buyer proceeds to Closing, Buyer will be deemed to have elected to waive all objections to and accepted all of the items in the Water Rights Opinion. The Closing Date established in Section 6 below shall be extended on a day-for-day basis to accommodate the notice and cure time periods outlined in this Section 5.

**6. Water Rights Inspection Period.**

(a) Inspection Period. Buyer shall have a period of fifty (50) calendar days from the Agreement Date in which Buyer shall verify and ascertain the suitability of the Water Rights for Buyer's intended uses, in Buyer's sole and absolute discretion ("Inspection Period").

(b) Property Documents. To the extent it has not already done so, within ten (10) calendar days after the Agreement Date, Seller shall make available to Buyer copies of its files and records related to the Water Rights the possession or control of the Seller including but not limited to the following documents to the extent not privileged or otherwise protected: documents related

to title to and liens or encumbrances on the Water Rights; previous title opinions; agreements associated with the Water Rights; water rights decrees; water rights engineering reports, technical reports and correspondence, including those related to the use and historical consumptive use of the Water Rights for irrigation on the golf course; diversion records and accounting; maps and aerial photos; and any correspondence with federal, local or state agencies, including the Division of Water Resources and Colorado Department of Health and the Environment, concerning water rights, water supply or water quality issues (collectively, the "Water Documents"). Except for the Water Rights Opinion described in Section 5, Buyer acknowledges and agrees that all Water Documents delivered or made available by Seller to Buyer are for Buyer's information and use only, and Seller makes no representation or warranty as to the accuracy or completeness of any such Water Documents or Buyer's ability to use any of such Water Documents. Except for the Water Rights Opinion described in Section 5, Buyer acknowledges that it shall be solely responsible for verifying all information contained in the Water Documents, including the completeness, accuracy and applicability of the Water Documents.

(c) **Termination.** If Buyer fails to provide Seller with written notice that it will terminate this Agreement (the "Termination Notice") on or before the expiration of the Inspection Period in the manner set forth in the Notice provision in Section 13.d, Buyer shall be deemed to have elected to accept the conditions of the Water Rights discovered in the Inspection Period. In the event Buyer provides Seller with the Termination Notice on or before the expiration of the Inspection Period, the Earnest Money shall be refunded to the Buyer, none of the Parties shall be further bound hereby, and this Agreement shall be of no further force or effect (subject to the provisions of this Agreement which expressly survive such termination). Seller shall have no right to cure if Buyer elects to terminate the Agreement pursuant to this Section 6.

7. **Closing.** The closing of the purchase and sale ("Closing") of the Water Rights shall occur on such date as mutually agreed upon by Buyer and Seller, but in no event later than sixty (60) days after the Agreement Date (the "Closing Date"), subject to Section 5. The Closing will be held at the offices of the Title Company, or at such other location as mutually agreed upon by Buyer and Seller or, if the parties so agree, through an escrow-type closing with the Title Company acting as the closing agent.

8. **Actions at Closing.** The following will occur at Closing in a sequence prescribed in mutually agreeable Closing instructions all of which shall be mutually and concurrently dependent:

(a) Seller shall execute and deliver to Buyer a special warranty deeds for the Water Rights in the form attached hereto as **EXHIBIT B** free and clear of all liens and encumbrances.

(b) Seller and Buyer shall execute an agreement, in a form acceptable to Buyer, acknowledging that Seller retains all of Seller's obligations owed to the Ken-Caryl West Ranch Water District as detailed in: i) the special warranty deed dated September 6, 1973 recorded at Reception No. 592841 on September 6, 1973; ii) the special warranty deed dated December 8, 1978 recorded at Reception 79018795 on March 2, 1979; and iii) the decree entered in W-7390, District Court, Water Division No. 1. Seller shall remain responsible for meeting such obligations using Seller's interest in the Shaffer Ditch and the Tinker & Shaffer Reservoir water rights. Seller shall indemnify and hold harmless Buyer for any failure of Seller to perform such obligations.

(c) Seller or Seller's designated individual with personal knowledge shall fill out, execute and deliver to Buyer an Historical Use Affidavit in the form attached hereto as **EXHIBIT C** detailing the use of the Water Rights for irrigation on the golf course.

(d) Seller and In Play Membership Golf, Inc. ("In Play") shall execute and deliver to Buyer a Dry Up Covenant, in a form acceptable to Buyer.

(e) Seller and In Play shall execute and deliver to Buyer a termination of the Amended and Restated Water Lease dated June 1, 2011 between Maya Water, Inc. and In Play in a form acceptable to Buyer.

(f) Seller, Stacey Hart, In Play and Buyer shall execute the No Statement of Opposition Agreement in the form of agreement attached hereto as **EXHIBIT D**.

(g) Seller and any person(s) or entity(ies) owning or holding a lien or encumbrance on the Water Rights shall execute and deliver document(s), in a form acceptable to Buyer, necessary to clear such lien or encumbrance.

(h) Buyer shall deliver to the Title Company, as the closing agent, the Purchase Price, less the Earnest Money, in cash or by wire transfer or other immediately available funds.

(i) The Purchase Price funds delivered by Buyer to the Title Company, as adjusted pursuant to this Agreement, shall be delivered to Seller.

(j) Seller and Buyer will execute and deliver to the Title Company the appropriate parties' Settlement Statements.

(k) Each party will deliver to the other party and the Title Company such agreements, assignments, conveyances, instruments, documents, typical affidavits required by the Title Company, certificates and the like as may be reasonably required by either party or the Title Company to consummate the purchase and sale of the Water Rights in accordance with the terms of this Agreement.

(l) The following adjustment ("Closing Adjustments") will be made as of the Closing to the Purchase Price. Buyer will pay the recording fee for the deeds conveying the Water Rights and any other recorded documents. The parties will share closing fees of the Title Company equally. Each party will be responsible for payment of its own attorneys' fees. All other costs of Closing will be prorated between the parties as is customary in commercial closings in this State.

9. **Post-Closing Assistance.** Following Closing, Seller will provide Buyer with reasonable assistance in the transition of the administration and the operation of the Water Rights, provided Seller does not incur any expenses for which Seller will not be reimbursed by Buyer.

10. **Representations and Warranties of Seller.** Seller represents and warrants to Buyer that each of the following statements is true and correct as of the Agreement Date and will be true and correct as of the Closing Date:

(a) Seller is a limited liability company duly formed, validly existing, and in good standing in the State of Colorado.

(b) To the best of Seller's knowledge, there is no litigation, condemnation or eminent domain action, or administrative, governmental or other proceeding, pending or threatened, against Seller and/or affecting the ownership or use of the Water Rights which, if decided or determined adversely, would have a material adverse effect on the ability of Seller to sell the Water Rights pursuant to this Agreement.

(c) Seller has full right, power and authority to enter into this Agreement and to perform the obligations hereunder, and this Agreement and all other documentation required by Buyer hereunder, when duly executed and delivered, shall constitute the valid and binding obligation of Seller, enforceable in accordance with such terms. The individual executing this Agreement on behalf of Seller is authorized to do so.

(d) Seller has retained a broker, agent or finder in connection with this Agreement and the transfer of the Water Rights. Seller shall pay all fees and commissions owing pursuant to the transaction. Seller shall indemnify and hold harmless Buyer from liability for any fees or commissions owing pursuant to such retention related to this transaction.

(e) To the best of Seller's knowledge, no other person has any legal or equitable right to the Water Rights as of Closing.

(f) Seller, to the best of its knowledge, is unaware of any material Water Document in its possession that Seller has not produced or made available to Buyer.

(g) To the best of Seller's knowledge, all of the Water Rights and any decrees therefor are in full force and effect and no portion of the Water Rights have been abandoned.

11. **Buyer's Representations and Warranties.** Buyer represents and warrants to Seller that each of the following statements is true and correct as of the Agreement Date and will be true and correct as of the Closing Date:

(a) Buyer is a governmental entity duly formed and validly existing in the State of Colorado.

(b) Buyer has all requisite power, corporate and otherwise, to execute, deliver and perform its obligations pursuant to this Agreement, that the execution, delivery and performance of this Agreement and the documents to be executed and delivered pursuant to this Agreement have been duly authorized by it, and that upon execution and delivery, this Agreement and all documents to be executed and delivered pursuant to this Agreement will constitute its legal, valid and binding obligation, enforceable against it in accordance with their terms.

(c) The individual executing this Agreement on behalf of Buyer is authorized to do so.

(d) Buyer has not retained any broker, agent or finder or agreed to pay any commissions or finders' fees in connection with this Agreement or the transfer of the Water Rights. To the extent permitted and provided by law, Buyer shall indemnify and hold harmless Seller from liability for any fees or commissions owing pursuant to this transaction caused by Buyer's breach of this representation.

(e) If prior to Closing, Buyer obtains knowledge that any of the covenants, representations or warranties of Seller in this Agreement are not true or correct, and Buyer deems such inaccuracy to be material to Buyer, then Buyer shall promptly notify Seller in writing of the same in order to afford the Seller a reasonable opportunity to cure the same prior to Closing.

12. **No Other Warranties.** Buyer has made, and will make, its own independent inspection and investigation of the Water Rights and the Water Documents, and, in entering into this Agreement and purchasing the Water Rights, Buyer is relying upon and will rely solely on such inspection and investigation of the Water Rights and the Water Documents. Except for the representations and warranties expressly set forth in (i) this Agreement, (ii) the documents executed by Seller at Closing, and (iii) the Water Right Opinion, Buyer acknowledges and agrees that neither Seller nor anyone acting on behalf of Seller has not made, does not make and specifically negates and disclaims any representations or warranties whatsoever, whether expressed or implied, oral or written, past, present or future concerning the Water Rights. Except as otherwise provided herein, **BUYER ACKNOWLEDGES THAT TO THE MAXIMUM EXTENT ALLOWED BY LAW, THE SALE OF THE WATER RIGHTS WILL BE MADE IN AN "AS IS" CONDITION, WITH ALL FAULTS.** Buyer acknowledges that the Purchase Price is based in part on the fact that there are no other representations and warranties and that if Seller were required to give any additional representations and warranties the Purchase Price would be materially higher.

13. **Default, Remedy and Termination.**

(a) **Buyer Default.** It is hereby agreed that Seller's damages may be difficult to ascertain. The Earnest Money constitutes a reasonable liquidation of Seller's damages and is intended not as a penalty, but as liquidated damages. If the transaction contemplated herein is not consummated on or before the Closing Date solely as a result of the default by Buyer of its obligations hereunder, as Seller's sole and exclusive remedy, the Title Company shall pay the Earnest Money to Seller as liquidated damages and in full settlement of any claims for damages. Whereupon, Buyer shall have no further liability or obligation hereunder to Seller and no other remedy shall be available for Buyer's breach of this Agreement; provided, however, that Seller shall also be entitled to enforce Buyer's obligations that expressly survive the termination of this Agreement.

(b) **Seller's Default.** If the transaction contemplated herein is not consummated on or before the Closing Date solely as a result of a default by Seller of its obligations hereunder, Buyer shall be entitled to one of the following remedies as its sole and exclusive remedy: (i) the right to cancel this Agreement, in which event this Agreement shall terminate and be of no further force or effect and the Title Company will refund to Buyer the Earnest Money; or (ii) seek specific performance of this Agreement; provided however, that unless Buyer has provided written notice to Seller and the Title Company no later than ninety (90) days from the Closing Date that Buyer

has elected to commence an action for specific performance, Buyer shall be deemed to have irrevocably chosen the foregoing option (i). In the event of any such termination, Seller shall be entitled to enforce Buyer's obligations that expressly survive the termination of this Agreement.

14. **Miscellaneous Provisions.**

(a) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado and applicable federal law.

(b) **Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall constitute one and the same instrument.

(c) **Further Assurance.** Each of the parties hereto, at any time and from time to time, will execute and deliver such further instruments and take such further action as may reasonably be requested by the other party hereto, in order to cure any defects in the execution and delivery of, or to comply with or accomplish the covenants and agreements contained in this Agreement and/or any other agreements or documents related thereto.

(d) **Notices.** If under the terms of this Agreement, notice is to be provided to any party, said notice shall be deemed provided upon (i) personal delivery, (ii) three (3) business days after the mailing of the same by registered or certified mail, return receipt requested, (iii) when delivered (and signed for) by an overnight delivery service, or (iv) when delivered by email transmission for which automatic confirmation or written acknowledgement has been received, addressed in each case as follows:

If to Seller:                    TDK Holdings, LLC  
   Attn: Antonio L. Converse, Manager  
   PO Box 101585  
   Denver, CO 80250

With a copy to:                Converse Law Group, P.C.  
   600 17th Street, Suite 2800 South  
   Denver, CO 80202

If to Buyer:                    Town of Castle Rock  
   Attn: Director of Castle Rock Water  
   175 Kellogg Court  
   Castle Rock, CO 80109  
   mmarlowe@crgov.com

with a copy to:                Town of Castle Rock  
   Attn: Town Attorney  
   100 N. Wilcox Street  
   Castle Rock, CO 80104  
   mhyman@crgov.com

with a copy to: Lyons Gaddis. PC  
Attn: Madoline Wallace-Gross  
515 Kimbark Street, 2<sup>nd</sup> Floor  
Longmont, CO 80501  
mwg@lyonsgaddis.com

Any party may change the address to which notices should be sent by giving the other parties written notice of the new address in the manner set forth in this paragraph. A party may give any notice, instruction or communication in connection with this Agreement using any other means (including facsimile or first-class mail), but no such notice, instruction or communication shall be deemed to have been delivered unless and until it is actually received by the party to whom it was sent and such party acknowledges such receipt.

(e) No Consideration of Drafter. This Agreement has been negotiated by all parties hereto and their counsel. It shall be given a fair and reasonable interpretation in accordance with its terms, without consideration or weight being given to its having been drafted by any party hereto or its counsel.

(f) Attorneys' Fees. In the event of any litigation or arbitration proceedings between the parties hereto concerning the subject matter of this Agreement, the prevailing party in such litigation or proceeding shall be awarded, in addition to the amount of any judgment or other award entered therein, the costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the litigation or proceeding.

(g) Amendment. This Agreement may be amended, altered or revoked only by written instrument executed by all of the parties to this Agreement.

(h) Survival. All representations and warranties of title to the Water Rights in this Agreement shall merge into the representations and warranties of title in the deeds and other instruments of conveyance of the Water Rights made in connection with the Closing. All other representations and warranties in this Agreement of Seller and Buyer shall survive the Closing for a period of two (2) years following Closing, provided any claim asserted by a party for breach of such warranties or representations within such two-year period may proceed to resolution, irrespective of the expiration of such two-year period.

(i) Assignment. This Agreement may not be assigned by either party without the prior written consent of the other.

(j) Expenses. Each party shall pay its own costs and expenses in connection with the operation under and administration of this Agreement.

(k) Waivers and Consents. All waivers and consents given hereunder shall be in writing. No waiver by any party hereto of any breach or anticipated breach of any provision hereof by any other party shall be deemed a waiver of any other contemporaneous, preceding or succeeding breach or anticipated breach, whether or not similar, on the part of the same or any other party.



(l) Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding and all of the remaining provisions of this Agreement shall continue in full force and effect.

(m) Rights of Third Parties. All conditions of the obligations of the parties hereto, warranties and representations, and all undertakings herein, except as otherwise provided by a written consent, are solely and exclusively for the benefit of the parties hereto, their successors and assigns and their successors-in-interest. No other person or entity shall have standing to require satisfaction of such conditions or to enforce such undertakings in accordance with their terms or be entitled to assume that any party hereto will refuse to complete the transaction contemplated hereby in the absence of strict compliance with such conditions and undertakings. No other person or entity shall, under any circumstances, be deemed a beneficiary of such conditions or undertakings, any or all of which may be freely waived in whole or in part, by mutual consent of the parties hereto at any time, if in their sole discretion they deem it desirable to do so.

(n) Construction. Throughout this Agreement, the headings for paragraphs, section and articles used in this Agreement are included for purposes of convenience of reference only, and shall not affect the construction or interpretation of any of its terms; the singular shall include the plural and the plural shall include the singular; all genders shall be deemed to include other genders, wherever the context so requires; and the terms “including,” “include” or derivatives thereof, unless otherwise specified, shall be interpreted in as broad a sense as possible to mean “including, but not limited to,” or “including, by way of example and not limitation.”

(o) Exhibits. All schedules, exhibits and addenda attached to this Agreement and referred to herein, if any, shall for all purposes be deemed to be incorporated in this Agreement by this reference and made a part of this Agreement.

(p) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(q) Recordation. Neither this Agreement or any memorandum or extract hereof shall be recorded. Any recording by or on behalf of Buyer without the written consent of Seller will be a breach by Buyer for which there is no right to cure and for which Seller may terminate this Agreement.

*[Signature pages to follow]*

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**TOWN:**

**ATTEST:**

**TOWN OF CASTLE ROCK,**  
acting by and through the Town of Castle Rock  
Water Enterprise

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Lisa Anderson, Town Clerk

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Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

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Michael J. Hyman, Town Attorney

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Mark Marlowe, Director of Castle Rock Water

**EXHIBIT A**  
**TO PURCHASE AND SALE AGREEMENT**  
**WATER RIGHTS**

The following water rights described in the Special Warranty Deed (Water Rights) from Maya Water, Inc. to TDK Holdings, LLC dated October 30, 2017 and recorded on November 2, 2017 at Reception No. 2017113592 of the real property records of Jefferson County, Colorado.

The Glen Plym No. 1 Ditch, Priority No. 36 in former Water District No. 8, for 1.95 c.f.s out of Deer Creek, with an appropriation date of December 1, 1867, as the right was changed and quantified by the decree in Case No. W-7390.

The Deer Creek Canon Ditch and Mann Reservoir, Priority No. 99 in former Water District No. 8, for 3.33 c.f.s. out of Deer Creek, with an appropriation date of December 8, 1877, as the right was changed and quantified by the decree in Case No. W-7390.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the Seller, either in law or equity, of, in and to the above bargained water rights with the hereditaments and appurtenances thereto.

**EXHIBIT B  
TO PURCHASE AND SALE AGREEMENT**

**SPECIAL WARRANTY DEED  
WATER RIGHTS**

THIS DEED is made to be effective as of this \_\_\_\_\_ day of \_\_\_\_\_, by TDK HOLDINGS, LLC (“Grantor”), for the benefit of TOWN OF CASTLE ROCK, a Colorado home rule municipality (“Grantee”).

WITNESSETH, that the Grantor, in consideration of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed and by the presents does grant, bargain, sell, convey and confirm unto the Grantee, it successors and assigns forever, all of Grantor’s in and to the following water, water rights, and rights to water in the County of Jefferson, State of Colorado:

The Glen Plym No. 1 Ditch, Priority No. 36 in former Water District No. 8, for 1.95 c.f.s out of Deer Creek, with an appropriation date of December 1, 1867, as the right was changed and quantified by the decree in Case No. W-7390, District Court, Water Division No. 1.

The Deer Creek Canon Ditch and Mann Reservoir, Priority No. 99 in former Water District No. 8, for 3.33 c.f.s. out of Deer Creek, with an appropriation date of December 8, 1877, as the right was changed and quantified by the decree in Case No. W-7390, District Court, Water Division No. 1.

The above-described decreed water, water rights, and rights to water are conveyed together with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained water, water rights, and rights to water with the hereditaments and appurtenances thereto.

Reserving unto Grantor, however, the headgate, ditches and pipelines used for diversion and carriage of the water rights described above, including but not limited to the Deer Creek Pumping Plant and Mann Reservoir, and also reserving to Grantor all easements for such structures.

TO HAVE AND TO HOLD the said water, water rights, and rights to water with the hereditaments and appurtenances thereto, unto the Grantee, its successors and assigns forever. The Grantor, for itself, its successors and assigns, does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above-bargained and described water, water rights, and rights to water, with the hereditaments and appurtenances thereto (subject to the reservation set forth above), the reversion and reversions, remainder and remainders, rents issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained water rights, in the quiet and peaceable possession of the Grantee, its successors and assigns, including, if it subsequently comes into the chain of title, the Town of

Castle Rock, a home rule municipality of the County of Douglas, State of Colorado, including the Castle Rock Water Enterprise, against all and every person and persons claiming the whole or any part thereof, by, through or under the Grantor.

IN WITNESS WHEREOF, Grantor has executed this Deed to be effective on the date set forth above.

**GRANTOR:**

TDK HOLDINGS, LLC  
a Colorado limited liability company

By: \_\_\_\_\_  
Antonio L. Converse, Manager

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Antonio L. Converse, as Manager, for TDK Holdings, LLC.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**EXHIBIT C**  
**TO PURCHASE AND SALE AGREEMENT**

**HISTORICAL USE AFFIDAVIT**

*USE ONE AFFIDAVIT FOR EACH WATER RIGHT*

**I. WATER RIGHTS**

- A. Water Right Name: \_\_\_\_\_
- B. Case Number of Decree: \_\_\_\_\_

**II. IRRIGATED LAND**

- A. Description of land irrigated by Water Rights listed above.
- B. Status of water supply.
1. Was there a full water supply on the property? (State years supply was not full and percentage of crop demand supplied by the water rights)
2. Was there a supplemental water supply used on the property? (Please specify supplemental water used and the percentage of irrigation demand supplied by supplemental water.)
- C. Method of Irrigation (e.g. flood, sprinkler, drip)

**III. SUMMARY**

- A. Type of Irrigated Acreage
- B. Number of Acres
- C. Name(s) and address(s) of all people who operated the water system:
- D. Years irrigated by Water Rights:

The undersigned, \_\_\_\_\_, whose address is \_\_\_\_\_, being 18 years of age and having personal knowledge of the irrigation of the previously described lands by virtue of being the owner(s) and/or person(s) who have irrigated those, being first duly sworn, hereby states that to the extent of my/our knowledge, the listed Water Rights and historical use of said Water Rights as set forth on the Statement attached hereto, constitute the beneficial use of the aforementioned Water Rights and there has been no intent to abandon such Water Rights.

Further affiant sayeth naught.

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(print)

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public



**EXHIBIT D  
TO PURCHASE AND SALE AGREEMENT**

**NO STATEMENTS OF OPPOSITION  
AGREEMENT**

THIS NO STATEMENTS OF OPPOSITION AGREEMENT (this "Agreement") is made and entered into on \_\_\_\_\_ (the "Agreement Date"), by and among TDK HOLDINGS, LLC, a Colorado limited liability company (the "Seller") and the TOWN OF CASTLE ROCK, a Colorado home rule municipality ("Buyer"), and the other persons and entities defined in this Agreement as the "Non-Opposers."

**RECITALS**

A. Seller and Buyer are parties to the Purchase and Sale Agreement dated \_\_\_\_\_ (the "Purchase Agreement"), pursuant to which Seller agreed to sell to Buyer certain water rights located in Jefferson County, Colorado (as more particularly described and defined in the Purchase Agreement, the "Property").

B. Pursuant to the Purchase Agreement, Seller agreed not to file a statement of opposition or otherwise participate as a party in certain water court applications that Buyer may file.

C. Such parties agree to confirm such agreement on the terms of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows.

1. Non-Opposers Defined. The "Non-Opposers" means the following entities or individuals: Seller, Stacey Hart, and In Play Membership Golf, Inc.

2. No Statements of Opposition. Each Non-Opposer covenants and agrees that he or it shall not file a statement of opposition or otherwise participate as a party in any water court application that Buyer may file which water court application associated with nontributary and not nontributary groundwater rights and tributary water rights diverting, storing, or being exchanged on or tributary to Plum Creek, Massey Gulch or Deer Creek and Chatfield Reservoir.

3. Default and Remedies. In the event either party should default in performance of its obligations under this agreement, and such default shall remain uncured for more than 10 days after notice of default is given to the defaulting party, the non-defaulting party shall be entitled to pursue any and all legal remedies and recover its reasonable attorney's fees and costs in such legal action.

4. Governing Law. The parties hereto hereby expressly agree that the terms and conditions hereof, and the subsequent performance hereunder, shall be construed and controlled by the laws of the State of Colorado.

5. Amendment. No change, alteration, amendment, modification or waiver of any of the terms or provisions hereof shall be valid unless the same shall be in writing and signed by the parties hereto.

6. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted successors and assigns.

7. Authority. Each person executing this Agreement represents that he has full power and authority to execute, deliver and perform this Agreement, and that the individual executing this Agreement on behalf of another party is fully empowered and authorized to do so, including, but not limited to any entity that he has a controlling interest in.

8. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be an original, but all of which shall constitute one agreement.

**SELLER:**

TDK HOLDINGS, LLC  
a Colorado limited liability company

By: \_\_\_\_\_  
Antonio L. Converse, Manager

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023,  
by Antonio L. Converse, as Manager, for TDK Holdings, LLC.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**NON-OPPOSERS:**

\_\_\_\_\_  
Stacey Hart

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023,  
by Stacey Hart.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

IN PLAY MEMBERSHIP GOLF, INC.  
a Colorado for-profit corporation

By: \_\_\_\_\_  
Stacey Hart, President

STATE OF COLORADO            )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023,  
by Stacey Hart, as President, for In Play Membership Golf, Inc.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**BUYER:**

**ATTEST:**

**TOWN OF CASTLE ROCK,**  
acting by and through the Town of Castle Rock  
Water Enterprise

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Lisa Anderson, Town Clerk

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Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

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Michael J. Hyman, Town Attorney

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Mark Marlowe