

**STANDSTILL AGREEMENT**

This Standstill Agreement (the "Agreement"), made effective as of 2/15/18, 2018 ("Effective Date"), is made by and between Town of Mountain Village, a Colorado Home Rule Municipality and Political Subdivision of the State of Colorado ("Town") and Northlight Trust I ("Landowner"). The Town and the Landowner also are referred to as the Parties.

**RECITALS**

A. In 2007, the Town reviewed and approved a certain mixed use development project ("Project") which authorized certain development and uses to occur on Lot 126R and Lot 152R ("Property"), as reflected and evidenced by certain documents of record ("Existing Town Approvals")

B. The Existing Town Approvals also included "Vested Rights" which precludes the Town from any zoning or land use action, which would alter, impair or diminish the development or use of the Property consistent with the Existing Town Approvals at any time during the period of vesting. The Vested Rights are set to expire on March 18, 2018.

C. The expiration of the Vested Rights does not alter, impair, diminish or revoke the Existing Town Approvals, rather the expiration of the Vested Rights would allow the Town to take affirmative action to alter, impair, diminish or revoke the Existing Town Approvals.

D. Prior to the granting of the Existing Town Approvals, the zoning, land uses and density rights applicable to the Property were as follows ("Prior Use By Right Land Uses/Density"):

Lot	Acreage	Zone District	Zoning Designation	Units	Density Per Unit	Total Density	Rezone of Density Transfer Request
118	.86 acres	Single Family	Single Family	1	4	4	Rezone to 4 Hotel Efficiency Density Units
126	2.698 acres	Multi-Unit	Condominium	25	3	75	
			Hotel	70	1.5	105	Rezone 21 Hotel Density Units to Hotel Efficiency
			Employee Apartment	2	3	6	
			Employee Dorm	16	1	16	
			Commercial				
130	.474 acres	Multi-Unit	Condominium	10	3	30	
152A	.401 acres	Multi-Unit	Condominium	8	3	24	
152B	.367 acres	Multi-Unit	Condominium	6	3	18	
152C	.368 acres	Multi-Unit	Condominium	8	3	24	
OS-1	5.16 acres	Active Open Space	Open Space				
Total Units/ Density				146		302	

E. The Existing Town Approvals authorized the following zoning, land uses and density rights in connection with the development of the Property

Lot	Acres	Zone District	Zoning Designation	Units	Density Per Unit	Total Density	Rezone/Density Transfer Request
126R	3.11 acres	Multi-Unit	Condominium	44	3	132	Transfer of 27 Units of Condo Density
			Hotel	56	1.5	84	
			Hotel Efficiency	19	2	38	Transfer of 13 Units of Condo Density and Rezone to Hotel Efficiency
			Employee Dorm	17	1	17	Creation and Transfer of 1 Unit of Dorm Density
			Employee Apartment	5	3	15	Creation and Transfer of 9 Units of Employee Apartment Density
			Commercial	34,001 34 Units			
152R	1.46 acres	Multi-Unit	Condominium	23	3	69	Transfer of 3 Units of Condo Density
			Commercial	4,665 4.66 Units			
OS-1R-1	91.96 acres	Active Open Space	Open Space				
OS-118	.65 acres	Active/Passive Open Space	Open Space				
OSP-126	.26 acres	Passive Open Space	Open Space				
Total Units/ Density				164 202.6 with Commercial Units		355	

F. Landowner has advised the Town that Landowner seeks to pursue an alternative development plan for the Property that would involve material changes and reductions to the overall mass/scale of Project and reductions to the land uses and densities occurring on the Property relative to the Existing Town Approvals (“**Alternative Development Plan**”). The Landowner recognizes and agrees that the Town would review and act upon the Alternative Development Plan in accordance with the then current standards and requirements of the Community Development Code (“**CDC**”) in the course of duly noticed and conducted public hearings. The Parties also acknowledge that there is no presumption of the Existing Town Approval appropriateness and that the Alternative Development Plan will be judged on its own merits.

G. In lieu of seeking a further extension of the Vested Rights, the Landowner has proposed and the Town has agreed that Landowner will not seek to implement the “Site Specific Development Plan” reflected in the Existing Town Approvals and in return the Town has agreed to refrain from taking an action to revoke the Existing Town Approvals, provided that Landowner is otherwise in substantial compliance with the terms, conditions and provisions of this Agreement.

#### AGREEMENTS

**NOW, THEREFORE**, in consideration of the foregoing recitals (which are incorporated into the below agreements) and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Landowner Agrees Not to Pursue Extension of Vested Rights.** Landowner agrees that it shall not submit an application seeking to extend the Vested Rights for the Existing Town Approvals.

2. **Limitations on Use of the Property.** During the term of this Agreement, Landowner agrees that it will not seek to develop, construct, apply for permits or otherwise seek to develop the Property in accordance with the Existing Town Approvals. The foregoing shall not preclude Landowner from undertaking general and routine maintenance of the Property.

3. **Alternative Development Plan.**

a. Landowner agrees that Landowner shall conduct two community meetings in the Mountain Village to present and receive comments on its Alternative Development Plan from the Mountain Village community prior to submitting its application for the Alternative Development Plan. The Landowner may arrange for the use of the Town Council chambers at 455 Mountain Village Blvd., with the Town to facilitate such meetings.

b. Landowner agrees that Landowner shall submit an application for its Alternative Development Plan pursuant to the provisions of the CDC on or before June 15<sup>th</sup>, 2018 (the "Application Deadline"). Landowner and the Town agree that the Landowner shall diligently pursue action on the Alternative Development Plan and that the Town shall in good faith process, review and act upon the application for the Alternative Development Plan according to the processes set forth in the CDC. Nothing herein shall be construed as contractually or otherwise obligating the Town to approve Landowner's application for the Alternative Development Plan.

4. **Town Agreement Not to Revoke Existing Town Approvals.** Landowner agrees that the Town, upon expiration of the Vested Rights on March 18, 2018, the Town has the right pursuant to the CDC in effect at the time the Town initiates such action, to revoke, rescind, or otherwise terminate the Existing Town Approvals. Town agrees that during the term this Agreement is in effect and provided that Landowner is in compliance with the Agreement, it will not take any such action to revoke, rescind or otherwise terminate the Existing Town Approvals.

5. **Termination.** This Agreement shall terminate upon any one of the following events: (a) the Landowner fails to submit an application by the Application Deadline; (b) the Landowner is notified by the Town that it has not been diligently pursuing the application for the Alternative Development Deadline and does not cure such failure to the reasonable satisfaction of the Town within thirty (30) days of notification by the Town; (c) the parties mutually agree to terminate this Agreement; (d) 45 days after any final determination on an the Alternative Development Plan by the Town for which vested rights would attached pursuant to the CDC; (e) on June 15, 2020. Upon termination of this Agreement for any reason prior to securing approval of the Alternative Development Plan for the Property, the Town may immediately take action to revoke, rescind or otherwise terminate the Existing Town Approvals in whole or in part, with due consideration given to preserving existing platting, easements and prior land exchanges between the Landowner, the Town and third parties, which may result in a reversion to the Prior Use By Right Land Uses/Density for the Property. Nothing herein shall prevent or limit Landowner from appearing at any such proceeding to revoke, rescind or otherwise terminate the Existing Town Approvals pursuant to the Landowners rights if any under the CDC.

6. **Miscellaneous Provisions.**

a. **Recording.** This Agreement will be recorded in the Official Records of the San Miguel County Clerk and Recorders Office.

b. **Remedies; Governing Law. Costs and Expenses.** This Agreement shall be

construed under and governed by the laws of Colorado, with jurisdiction and venue restricted to a state court of competent jurisdiction in San Miguel County, Colorado. In the event a Party is deemed to be in default hereunder, the other party may pursue any and all available remedies under applicable law, including, without limitation, injunctive relief and specific performance. All of the rights and remedies of the Parties under this Agreement shall be cumulative. In any action to enforce or construe the terms of this MOU, the substantially prevailing Party shall recover all legal and related court costs, including all reasonable attorneys' fees and expert witness fees, costs and expenses.

c. **Binding Effect.** This Agreement shall extend to, inure to the benefit of, and be binding upon the Town and its successors and assigns and upon the Landowner its successors (including subsequent owners of the Property, or any part thereof), legal representatives and assigns. This MOU shall constitute an agreement running with the Property.

d. **Modifications, Amendments and Waiver.** No amendment, modification or termination of this Agreement or any portion thereof shall be valid or binding unless it is in writing, dated subsequent to the date hereof and signed by each of the Parties hereto. The Parties shall not amend this Agreement unless undertaken following a duly noticed public meeting by the Town Council, with a recommendation from the DRB in the manner prescribed by the CDC. No waiver of any breach, term or condition of this Agreement by any party shall constitute a subsequent waiver of the same or any other breach, term or condition.

e. **Severability and Further Assurances.** If any term or provision or Article of this MOU, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the applications or such term or provision or Article to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Each Party shall execute and deliver such documents or instruments and take such action as may be reasonably requested by the other Party to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

f. **Entire Agreement.** This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and no other representations, promises, agreements or understandings or obligations with respect to the payment of consideration or agreements to undertake other actions regarding the subject matter hereof shall be of any force or effect unless in writing, executed by all Parties hereto and dated after the date hereof.

g. **Counterparts and Copies.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Scanned/emailed or facsimile copies of any party's signature hereon shall be deemed an original for all purposes of this Agreement.

h. **Notice.** All notices, demands or writings in this Agreement provided to be given or made or sent that may be given or made or sent by either party hereto to the other, shall be deemed to have been fully given or made or sent when made in writing and delivered either by Fax, Email or United States Mail (certified, return receipt requests and postage pre-paid), and addressed to the party, at the below stated mailing address, email address or fax number. The mailing address, email address or fax number to which any notice, demand or writing may be changed by sending written notice to each party notifying the party of the change.

<p><b><u>Town:</u></b> Town of Mountain Village Attention: Town Manager 455 Mountain Village Blvd., Suite A Mountain Village, CO 81435</p>	<p><b><u>Owner:</u></b> Northlight Trust I Attention: _____ Mailing Address _____ _____</p>
<p><b><u>With a Copy to:</u></b> J. David Reed, Esquire PO Box 196 Montrose, CO 81402</p>	<p><b><u>With a Copy to:</u></b> The Law Offices of Thomas G. Kennedy, P.C. 307 E. Colorado Ave., Suite 203 P.O. Box 3081 Telluride, CO 81435 Email: tom@tklaw.net</p>

**THIS AGREEMENT IS AGREED AND ENTERED INTO BY THE PARTIES AS OF THE EFFECTIVE DATE:**

**TOWN:**

Town of Mountain Village, a Colorado Home Rule Municipality  
and Political Subdivision of the State of Colorado

By: *Laila Benitez*

Date: *3/13/2018*

Printed Name: *Laila Benitez*  
Title: *Mayor*

Attest: *Susan Johnston*  
Deputy Town Clerk

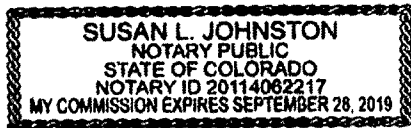
STATE OF *Colorado* )  
COUNTY OF *San Miguel* )<sup>ss</sup>

Acknowledged, subscribed and sworn to before me this *13<sup>th</sup>* day of *March*, 2018 by  
*Laila Benitez* as the Mayor of The Town of Mountain Village.

Witness my hand and official seal.

*Susan L Johnston*  
Notary Public

My commission expires: *9/28/19*



**LANDOWNER:**

Northlight Trust I

By: [Signature] Date: 3/5/18

Printed Name: Robert B Woods  
Title: Manager

STATE OF Colorado )  
COUNTY OF San Miguel ) ss

Acknowledged, subscribed and sworn to before me this 5 day of March, 2018 by Robert B. Woods as the Manager of Northlight Trust I.

Witness my hand and official seal.  
Christina Lambert  
Notary Public

My commission expires: July 24, 2019

