

1 EXHIBIT "I"
2 TO VALLEY BROOK TOWNHOMES PRE-CONSTRUCTION CONTRACT TO BUY
3 AND SELL REAL ESTATE
4

5
6 **LIMITED WARRANTY**
7

8 Summit Housing Development Corporation, a Colorado nonprofit corporation
9 ("**SHDC**"), warrants to the _____ (insert name of Buyer)
10 that for a period of one (1) year from the date of the issuance of a certificate of occupancy
11 for the Unit at the Valley Brook Townhomes in Breckenridge, Colorado referenced in
12 this Contract (the "**Unit**"), the Unit will be free from defects in materials and
13 workmanship according to all applicable building codes, governmental standards, and in
14 accordance with the "Standards of Construction" attached hereto as **Exhibit A**. The
15 provisions of this Limited Warranty will survive the Closing, and will inure to the benefit
16 of the Buyer for the duration of the Limited Warranty as set forth below. SHDC, at its
17 option, will repair or replace any defects which fall within the scope of this Limited
18 Warranty as defined below.
19

20 1. **NO IMPLIED WARRANTIES:** This Limited Warranty is in lieu of all
21 other warranties, express, implied, or statutory, written or oral, including, without
22 limitation, any implied warranty of habitability, merchantability, or fitness for a particular
23 purpose, with regard to the Unit covered by this Limited Warranty. Buyer understands
24 and agrees that this Limited Warranty is the only warranty provided by SHDC and that
25 by accepting this Limited Warranty Buyer is expressly waiving any implied warranty of
26 habitability, merchantability, or fitness for a particular purpose which might otherwise
27 apply to the Unit.
28

29 2. **WARRANTIES OF A THIRD PARTY:** This warranty does not cover
30 any appliance, piece of equipment, or other item which is a consumer product, for the
31 purposes of the Magnuson-Moss Warranty Act (15 U.S.C. §2301-2312) and SHDC
32 expressly disclaims any implied warranties with respect thereto. However, any product,
33 appliances, materials, or goods which have been installed in the Unit which have written
34 warranties provided by the manufacturer will be assigned and passed on to the Buyer
35 under this Contract. These warranties are the responsibility of the manufacturer of the
36 product and not SHDC; however, for the period of the warranty provided hereunder,
37 SHDC will assist Buyer in any dealings or negotiations with the manufacturer of such
38 products with regard to any warranty claim with respect to such products. Some
39 manufacturers' warranties may be in effect from the date of installation rather than the
40 date of the issuance of a final certificate of occupancy. In this circumstance, the
41 manufacturer's period of warranty will control over any other warranty provided by
42 SHDC hereunder.
43

44 3. **COVERAGE:** Subject to the exclusions set forth herein, SHDC warrants
45 as follows:
46

1 A. For a period of one (1) year from the date of the issuance of a certificate of
2 occupancy for the Unit SHDC warrants that the following items will be free from defects
3 in materials or workmanship: doors, windows, plumbing fixtures and cabinet work,
4 unless the manufacturer provides a warranty, in which case the manufacturer's warranty
5 will prevail.

6
7 B. For a period of sixty (60) days from the date of the issuance of a certificate
8 of occupancy for the Unit SHDC will make minor adjustments to cabinets, doors,
9 windows, and reset loose ceramic tiles.

10
11 C. For a period of sixty (60) days from the date of the issuance of a certificate
12 of occupancy for the Unit SHDC will warrant that the plumbing system is free of
13 stoppages unless the stoppage is found to be caused by the Buyer. Dripping faucets,
14 toilet adjustments and toilet seats are warranted for only the first thirty (30) days, unless
15 such defect arises from a defect in the product or in its installation, in which case,
16 SHDC's warranty will be for a period of one (1) year from the date of the issuance of a
17 final certificate of occupancy. Thermal expansion of the pipes, indicated by normal noise
18 in the pipes or heating system, is not covered under this Limited Warranty.

19
20 D. For a period of one (1) year from the date of the issuance of a certificate of
21 occupancy for the Unit, SHDC warrants that the plumbing, heating, and electrical
22 systems will be free of defective materials or workmanship which affect the proper
23 functioning of the systems. During the warranty period, Buyer is responsible for
24 undertaking proper maintenance of such systems, such as changing filters or washers and
25 glycol refresh. SHDC will not be liable for any failure of these systems which is
26 attributable to Buyer failing to provide proper maintenance.

27
28 E. For a period of one (1) year from the date of the issuance of a certificate of
29 occupancy for the Unit the roof will be free from leaks or other defects caused by
30 defective materials or workmanship. This warranty is void if Buyer or Buyer's agents
31 alter or modify the design of the roof or any materials installed thereon or otherwise
32 cause damage to the roof or roofing materials. This limited warranty does not cover any
33 leaks or damage caused by ice dams or snow accumulation on the roof, as provided in
34 Section 4(C).

35
36 F. For a period of one (1) year from the date of the issuance of a certificate of
37 occupancy for the Unit the foundation, walks, driveways, floors, ceilings, walls and other
38 internal or external parts of the project which are not otherwise covered under this
39 Limited Warranty will be free of defects in materials or workmanship which substantially
40 affect the Unit's structural value, cosmetic appearance, or substantially interrupt the plane
41 of the item's surface unless salt materials are use on the concrete which will flake the
42 surface.

43
44 4. **EXCLUSIONS TO COVERAGE:** SHDC does not assume responsibility
45 for any of the following, all of which are excluded from coverage under this Limited
46 Warranty:

1
2 A. This Limited Warranty does not cover minor visible defects which occur
3 more than thirty (30) days after issuance of a final certificate of occupancy, including but
4 not limited to minor surface irregularities in flooring, doors, dry wall, cabinets,
5 countertops, stucco, siding, concrete, appliances, plumbing fixtures, windows and
6 missing items such as light fixtures, light bulbs, window screens, window glass, and
7 mirrors. SHDC will assume that a minor surface defect or missing item occurred more
8 than thirty (30) days after the issuance of a final certificate of occupancy unless the
9 visible surface defect or missing item was noted on Buyer's punch list or otherwise
10 disclosed to SHDC within thirty (30) days. All such items are excluded from this
11 Limited Warranty except as set forth herein.

12
13 B. SHDC has no warranty liability for any defects in appliances and other
14 manufactured items which are covered by manufacturers' warranties. SHDC will assign
15 all such warranties to Buyer, and Buyer will follow the procedures of the manufacturers'
16 warranty, including the completion of the manufacturer's warranty registration cards.
17 SHDC agrees that it will provide Buyer with reasonable assistance in dealing with
18 manufacturer's representatives in connection with any warranty claim if Buyer so
19 requests.

20
21 C. This Limited Warranty does not apply to any damage or defect that is
22 caused by ordinary wear and tear, unreasonable or unauthorized use by Buyer, lack of
23 proper or timely maintenance, or the failure on the part of Buyer to take any reasonable
24 or necessary corrective action to prevent such damage. This limited warranty does not
25 cover any leaks or damage caused by ice dams or snow accumulation on the roof. The
26 formation of ice dams or snow drifts on the roof is a common condition in high altitude
27 areas and is not a defect in materials or workmanship. With proper maintenance and
28 prevention, the formation of ice dams or snow drifts can be minimized but not totally
29 eliminated. Buyer has been advised that regular maintenance and snow removal on the
30 roof is required to minimize the damage caused by ice dams and snow accumulation.
31 Buyer has further been advised that the installation of heat tape or other snow melt
32 systems may also minimize any damage.

33
34 D. This Limited Warranty does not apply to minor defects which are the
35 result of characteristics common to the materials used and which are commonly
36 considered minor maintenance items, such as but not limited to, cracking, fading,
37 warping, checking, cracks due to the drying and curing of wood, concrete, siding, stucco,
38 plaster, masonry, caulking or similar materials, and the expansion or contraction of
39 materials in walls, ceilings, floors, doors, and windows. This exclusion specifically
40 applies only to minor imperfections or irregularities which occur as a normal part of the
41 aging of the Unit. Breckenridge, Colorado is an arid environment and there will be
42 shrinking and dry cracking in wood. Use of humidifiers will minimize this effect. Any
43 significant cracks, warps, or expansion or contraction of materials or finishes which occur
44 during the one year warranty period and which cause a significant cosmetic defect or
45 distortion in any material are not excluded from SHDC's warranty hereunder.

1 E. Defects in materials or workmanship in items installed by the Buyer or by
2 any of Buyer's contractors or subcontractors are excluded from SHDC's Warranty.

3
4 F. Any conditions arising from the normal condensation on or expansion or
5 contraction of materials are excluded from SHDC's warranty.

6
7 G. Any damage, loss, or injury arising from acts, elements or natural
8 occurrences beyond SHDC's control are excluded from SHDC's warranty.

9
10 H. Any damage, loss, or injury, including but not limited to, bodily injury,
11 property damage, or any consequential or incidental damage occurring to any person or
12 property because of a defect in the Unit are excluded.

13
14 I. Any bodily injury or property damage resulting from mold.

15
16 5. **TRANSFER OF WARRANTY.** This warranty is offered only to the
17 original purchaser of the Unit from SHDC, and is **NOT TRANSFERRABLE** to any
18 subsequent purchaser of the Unit. This Limited Warranty gives the Buyer specific legal
19 rights, and the Buyer may also have other rights under State or Federal law. The
20 foregoing Limited Warranty will constitute the sole and exclusive remedy of any first
21 purchaser of the Unit hereunder with reference to any defective material and
22 workmanship, and will be the sole and exclusive warranty liability of SHDC.

23
24 6. **PROCEDURES.**

25
26 A. Written Notice of Claim. If Buyer discovers a defect which is covered by
27 this Limited Warranty, Buyer must give written notice to SHDC at the address provided
28 above specifying the name, address and telephone number of Buyer, the nature of this
29 defect; the date the defect first occurred, the loss or damage claimed; and the times
30 (SHDC's working hours 8:00 a.m. to 5:00 p.m., Monday through Friday) that SHDC may
31 have access to the Unit to inspect the loss or damage, and if necessary, take corrective
32 action. Such notice will be either delivered personally or sent by registered or certified
33 mail, postage prepaid, return receipt requested, and must be received by SHDC as soon as
34 practicable after Buyer either discovers or, in the exercise of reasonable diligence, should
35 have discovered the defect in the Unit or the loss of damage caused by such defect, but in
36 no event later than thirty (30) days after the warranty given hereby expires.

37
38 B. Emergency Repairs. If the defect constitutes an emergency situation
39 please contact the management company listed on the warranty information sheet
40 supplied at Closing. The management company will be able to supply you with phone
41 numbers for the appropriate sub-contractor. Emergency situations are only:

- 42
43 1. Total loss of heat.
44 2. Total loss of electricity.
45 3. Total sewer stoppage.

- 1 4. Plumbing leak that cannot be stopped without shutting off all the
- 2 water in the Unit.
- 3 5. Roof leak.
- 4 6. Total loss of hot water.

5
6 If Buyer is unable to notify SHDC, Buyer should notify the appropriate
7 subcontractor and the Management Company for the Valley Brook Townhomes.

8
9 C. SHDC Response. SHDC or its agent, representative, employee, or
10 subcontractor will contact Buyer within: (i) 24 hours in an emergency situation, or (ii)
11 five (5) business days in a non-emergency situation, following SHDC's receipt of the
12 notice of the claim to schedule an Inspection of the Unit and, if necessary, to schedule the
13 appropriate corrective action to be taken by SHDC. SHDC's agreement to inspect a
14 complaint from Buyer is not an agreement by SHDC that the subject of the complaint is
15 necessarily covered by this Limited Warranty. If SHDC determines that Buyer's
16 complaint is covered by this Limited Warranty it will proceed with due diligence to
17 complete any required corrective action undertaken, provided, however, that corrective
18 action will be completed within 72 hours of an emergency situation. Any delay caused
19 by strikes, labor disputes, boycotts, shortages of labor or materials, governmental action
20 or inaction, weather, acts of God, or any other fact or circumstance beyond the reasonable
21 control of SHDC is not a basis for a claim of lack of diligence on the part of SHDC.
22 SHDC's obligation to proceed with due diligence will be suspended for as long as any
23 such condition, fact, or circumstance continues to exist.

24
25 7. **REMEDIES.**

26
27 A. Repair or Replacement. If, following the inspection of the Unit, SHDC
28 and Buyer reasonably determine that a valid warranty claim exists, SHDC will, within the
29 time frames under Section 6(C) above, repair or replace, at its sole option, (i) the
30 defective item; and (ii) the damage to those portions of the Unit installed by SHDC
31 caused thereby and, upon completion of the repair or replacement, will leave the Unit in a
32 broom clean condition. SHDC will not be responsible if patterns in floor coverings, wall
33 coverings, or other finished surfaces have been discontinued, however, SHDC will use
34 best efforts to obtain the same. All work will be performed by SHDC or subcontractors
35 chosen by SHDC. SHDC is not obligated under this Limited Warranty to pay invoices,
36 bills, or receipts for labor performed or materials furnished by or at the direction of Buyer
37 unless such work is performed by Buyer after the time allotted for SHDC's performance
38 of such repair or replacement.

39
40 B. Warranty Not Extended. Actions taken by SHDC to correct a defect(s)
41 will not extend the term of this warranty.

42
43 8. **DISPUTE RESOLUTION.**

1 A. Negotiation and Mediation. SHDC and Buyers agree to attempt resolve
2 all disputes arising under this Limited Warranty or involving construction of the Unit
3 through good faith negotiation and mediation.
4

5 B. Arbitration. If after negotiation and mediation the parties are unable to
6 resolve a dispute involving this Limited Warranty or construction of the Unit, the dispute
7 must be resolved through arbitration. Either party may demand in writing the arbitration
8 of any dispute and the parties will within ten (10) days after notice of arbitration mutually
9 select an arbitrator who will hear and determine the dispute. If the parties fail to agree on
10 the selection of the arbitrator, then the mediator will select the arbitrator for them. The
11 arbitration will be conducted in Breckenridge, Colorado according to the procedures
12 determined by the arbitrator and in accordance with the Colorado Uniform Arbitration
13 Act. The parties agree that the arbitration will take place within sixty (60) days of the
14 date of the selection and confirmation of the availability of the arbitrator, subject only to
15 extensions necessary to accommodate the arbitrator’s schedule.
16

17 Each party will submit a written confidential statement of claims and defenses to
18 the arbitrator fourteen (14) days prior to the conduct of the hearing and will exchange
19 exhibits and a list of witnesses with the other party and the arbitrator at the same time as
20 the confidential statements are submitted. The arbitrator will then conduct the hearing
21 and issue a decision within thirty (30) days. The arbitrator’s decision may only be
22 challenged or modified as permitted under the Uniform Arbitration Act and will be
23 enforceable as a judgment against the losing party. It is the intent of this provision to
24 provide a speedy and economical method of resolving disputes without resorting to
25 litigation; however, if either party fails or refuses to comply with these procedures, the
26 other party may file an action in Summit County, Colorado District Court to obtain an
27 order compelling arbitration. The party so filing, if an order is issued will be entitled as a
28 part of such an order to be immediately reimbursed for all attorney’s fees and costs
29 incurred in such a filing.
30

31 Dated: _____
32

33 SELLER:
34

35 SUMMIT HOUSING DEVELOPMENT CORPORATION, a Colorado nonprofit
36 corporation
37
38
39

40 _____
41 By: Timothy J. Gagen, Town Manager, attorney in fact
42
43

1 BUYER:

2

3

4 _____

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8 _____

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