

**Terms and Conditions**  
**Last Updated: January 30<sup>th</sup>, 2019**

Welcome to our website. These Terms and Conditions (“Terms” or “Agreement”) are an agreement between you and Somera Capital Management (“Somera” or “we” or “us”).

By using this website and other websites owned by Somera (collectively, the “Website”) and using any services provided by Somera through the Website (the “Services”), you agree to read, comply with, and be legally bound by: (A) these Terms and (B) Somera’s Privacy Policy (available at <http://someracapital.com/terms> and <http://someracapital.com/privacy-policy>

**Notice Regarding Dispute Resolution:** These Terms and Conditions contain provisions that govern how claims you and we may have against each other are resolved including an agreement and obligation to arbitrate disputes, which will, subject to limited exceptions, require you to submit claims you have against us to binding arbitration, unless you opt-out in accordance with XIV. Unless you opt-out of arbitration: (A) you will only be permitted to pursue claims against us on an individual basis, not as part of any class or representative action or proceeding and (B) you will only be permitted to seek relief (including monetary, injunctive, and declaratory relief) on an individual basis.

**I. ACCURATE INFORMATION**

You certify that the name, address, and all other personal and non-personal information that you give us while and after opening any other account associated with the Website or Services is true, accurate, current, and complete. If you provide false, inaccurate, stale, or incomplete information, or if Somera suspects that you did so, Somera may refuse or limit access to, suspend, or terminate your account(s) or use of the Website or Services without prior notice to you.

**II. SERVICES**

This Website presents information regarding potential investments and allows you the opportunity to designate investment opportunities in which you would like to participate. However, such selection does not mean that you will be permitted to participate in such transaction. Our decisions to permit your participation are subject to, among other things, demonstration to our satisfaction that you meet legal requirements for participation, consent of relevant third parties, execution of definitive documentation, and our discretion. We make no representation or warranty that the potential transaction you have identified will take place, or that if it takes place that you will be allowed to participate. If you are offered the opportunity to participate in a transaction, you may be required to sign additional documentation. You agree to use your best efforts to cooperate and furnish timely, complete and accurate information to Somera as requested from time to time to facilitate your participation in investments and Somera reserves the right, in its discretion, to bar, terminate, exclude or withdraw your ability to make any investment at any time for any reason. Somera management decisions are final in all matters relating to the Website, services and other activities related to the Website.

### **III. ELECTRONIC CONTENT**

Somera provides the content of the Website for informational, educational and noncommercial purposes only. Although Somera may provide data, information and content relating to investments and opportunities to buy or sell securities, you should not construe any such information as investment, financial, tax, accounting, legal or other advice. You alone will bear the sole responsibility of evaluating the merits and risks associated with the use of any data, information or content on the Website before making any decisions based on such data, information or content. In exchange for using such data, information or content, you agree not to hold Somera or its third-party content providers liable for any possible claim for damages arising from any decision you make based on information made available to you through the Website.

Somera may offer content from third-party providers on the Website. This content includes, but is not limited to, financial market data, quotes, news, analyst opinions and research reports (the “Materials”). Somera does not endorse or approve the Materials, and we make it available to you only as a service and convenience. Somera and our third-party providers do not guarantee the accuracy, timeliness, completeness or correct sequencing of the Materials or warrant any results from your use or reliance on the Materials. The Materials may quickly become unreliable for various reasons including, for example, changes in market conditions or economic circumstances. Neither Somera nor the third-party providers are obligated to update any information or opinions contained in any of the Materials. Somera may discontinue offering any Materials on the Website at any time without notice. You agree that neither Somera nor the third-party providers will be liable to you in any way for the termination, interruption, delay or inaccuracy of any of the Materials on the Website. You will not redistribute or facilitate the redistribution of any Materials, nor will you provide access to the Materials to anyone who is not authorized by Somera to receive the Materials.

### **IV. FORWARD-LOOKING STATEMENTS**

Statements made on our website and in other material in our Company Information area that look forward in time are forward-looking statements. You can identify these forward-looking statements by the use of words such as “outlook,” “believe,” “expect,” “potential,” “continue,” “may,” “should,” “seek,” “approximately,” “predict,” “intend,” “will,” “plan,” “estimate,” “anticipate” or the negative version of these words or other comparable words. Forward-looking statements are subject to various risks and uncertainties. Such risks and uncertainties include, without limitation, the adverse effect from a decline in the securities markets or a decline in Somera’s products’ performance, a general downturn in the economy, competition from other companies, changes in government policy or regulation, inability of Somera to attract or retain key employees, inability of Somera to implement its operating strategy and acquisition strategy, inability of Somera to manage rapid expansion and unforeseen costs and other effects related to legal proceedings or investigations of governmental and self-regulatory organizations. The views on this website were prepared based upon the information available at the time such views were written. Changed or additional information could cause such views to change.

### **V. INVESTMENT TERMS**

You acknowledge and agree to the following statements:

I understand that Somera will be relying on my certification that I am an accredited investor in making opportunities available to me, and that the consequences of a false certification would be significant (including the possibility of a loss of an otherwise available registration exemption to the issuer). I agree that I will be responsible for any losses that are incurred as a result of a false certification or my continued use of the website after obtaining knowledge that a prior certification is no longer true. I agree to immediately inform Somera of any change to my status as an accredited investor.

You further understand that, in order to allow you to participate in certain investment opportunities through the website that are a part of an offering involving general solicitation of potential investors, that Somera must have a reasonable belief that I am an accredited investor. For this reason, I understand and agree that, prior to each such investment, I will be required, by the United States Securities Regulations, to provide or upload documents which support my certification above that I qualify as an accredited investor, such as W-2s, tax returns, investment account statements, a third-party confirmation from my accountant or broker, and/or any other documents (in each case redacted to eliminate social security numbers, account numbers or other similar sensitive personal identifying or financial information) that will enable issuers to reasonably evaluate my accredited investor status.

You acknowledge that all offers and sales that are made through the Website have not been registered under the United States Securities Act of 1933, as amended, or registered or qualified under applicable state securities laws. Neither the Securities and Exchange Commission nor any state regulatory authority has reviewed, approved or disapproved of any offers or sales, the related offering materials, or the terms of any offering, or determined whether the offering materials are truthful or complete. It is illegal for any person to tell you otherwise.

## **VI. CONFIDENTIALITY**

Somera is a private company that operates in a highly competitive industry. Accordingly, Somera takes great precautions to protect its proprietary information and confidential documents concerning its business operations, financial information and prospective operations and in this regard maintains an unbending corporate policy to protect its confidential information from being disseminated. Therefore, any and all information provided by Somera is strictly confidential, solely for the purpose of evaluating a potential purchase of units in a specific project and for no other purposes. With the sole exceptions of your officers, directors, financial advisors, accountants or legal counsel as absolutely necessary to evaluate the possible transaction contemplated herein, the confidential information shall not be disclosed to any third party without Somera's written consent. By accepting receipt of this information, you acknowledge that the information provided to you shall be held in the strictest confidence, shall not be copied or disseminated in any manner except to the individuals mentioned above and shall be only used for the purpose for which it is intended.

## **VII. ACCEPTABLE USE**

Your use of the Website and Services is conditioned upon your compliance with the following rules (“Acceptable Use Restrictions”):

You shall not upload to, transmit through, or display via the Website or Services any content that:

- is unlawful, fraudulent, threatening, abusive, libelous, defamatory, obscene or otherwise objectionable, or infringes our or any third party’s intellectual property or other rights;
- contains confidential, proprietary, or trade secret information of any third party;
- violates the rights of others, including without limitation any privacy rights or rights of publicity;
- impersonates any person or entity, falsely states or otherwise misrepresents your affiliation with any person or entity, or uses any fraudulent, misleading or inaccurate email address or other contact information;
- violates any applicable laws or regulations;
- makes any statement, express or implied, that you are endorsed by Somera;
- harms minors in any way, including, but not limited to, by depicting content that violates child pornography laws, child sexual exploitation laws and laws prohibiting the depiction of minors engaged in sexual conduct;
- contains any unsolicited promotions, political campaigning, advertising or solicitations;
- or in our sole judgment is inappropriate or objectionable or which restricts or inhibits any other person from using or enjoying the Website or Services or which may expose Somera, any of its officers, directors, or employees, or other users to any harm or liability of any type.

You shall not use the Website or any Services to engage in any of the following activities:

- accessing, using, or uploading content to, or attempting to access, use, or upload content to another user’s account without permission;
- or transmitting, uploading, or downloading, any software or other materials that contain any viruses, worms, trojan horses, defects, date bombs, time bombs or other items of a destructive nature.

Additionally, you shall not:

- access the Website or Services if you are not a resident of the United States;
- try to obtain unauthorized access to any account associated with the Website or Services;
- try to open an account if you are under the age of 18;
- provide false or misleading information at any time when opening or using an account;
- try to use the Website or any Service in a commercial manner, rather than for personal and non-commercial recreation;
- use the Website or any Service in a manner inconsistent with these Terms, Rules, or applicable law;

- modify or interfere with the Website, any Service, or other software or Somera content – including location, access, and other security features – for any reason, or permit or help anyone else to do so; or
- interfere with or alter the Website, any Service, or other software or Somera content.

## **VIII. OWNERSHIP OF WEBSITE AND CONTENT**

All right, title and interest in the Website and Services including, but not limited to all of the software and code that comprise and operate the Website and Services and all of the text, photographs, images, illustrations, graphics, audio, video and audio-video clips, URLs, advertising copy and other materials provided through the Website and Services (collectively, “Content”) are owned by us or by third parties who have licensed their Content to us. The Website and Services is protected under trademark, service mark, trade dress, copyright, patent, trade secret and other intellectual property laws. In addition, the entire Content of the Website and Services is a collective work under U.S. and international copyright laws and treaties, and we own the copyright in the selection, coordination, arrangement and enhancement of the Content of this Website.

We hereby grant you a limited, revocable license to download and print copies of any portion of the Content of the Website and Services to which you have properly gained access, but only for your own personal, non-commercial use, and only if you do not remove, modify or obscure any copyright, trademark, or other proprietary notices from the Content you download. The foregoing license is subject to these Terms and does not include the right to use any data mining, robots or other automatic or manual device, software, program, code, algorithm or methodology, to access, copy or monitor any portion of any Website and Services or Content, or in any way reproduce or circumvent the navigational structure or presentation of any Website and Services or Content, or obtain or attempt to obtain any materials or information through any means not purposely made available by us through the Website and Services. We reserve the right to take measures to prevent any such activity. This license is revocable at any time without notice and with or without cause. You may not permit others to copy, distribute, perform or display publicly, prepare derivative works based on, broadcast, exploit or use any part of the Content on the Website and Services except as expressly provided in these Terms. Nothing in these Terms shall be construed as transferring any right, title or interest in the Website and Services or their Content to you or anyone else, except the limited license to use the Website and Services and their Content on the terms expressly set forth herein.

Notwithstanding the foregoing, and specifically with regard to trademarks, Somera names and logos (including, without limitation, those of its affiliates), all product and service names, all graphics, all button icons, and all trademarks, service marks and logos appearing within the Website and Services unless otherwise noted, are trademarks (whether registered or not), service marks and/or trade dress of Somera and/or its affiliates (the “Somera Marks”). All other trademarks, product names, company names, logos, service marks and/or trade dress mentioned, displayed, cited or otherwise indicated within the Website and Services are the property of their respective owners. You are not authorized to display or use Somera Marks in any manner without our prior written permission. You are not authorized to display or use trademarks,

product names, company names, logos, service marks and/or trade dress of other owners featured within the Website and Services without the prior written permission of such owners. The use or misuse of Somera Marks or other trademarks, product names, company names, logos, service marks and/or trade dress or any other materials contained herein, except as permitted herein, is expressly prohibited.

## **IX. WEBSITE MONITORING**

You acknowledge and agree that Somera has the right to monitor the Website electronically from time to time and to disclose any information as necessary or appropriate to satisfy any law, to operate the Website, or to protect itself or its customers.

## **X. ACCOUNTS**

You may be required open an account with Somera before using certain Services.

By opening any account associated with the Website or Services, you are certifying to us that: (A) you understand and accept the risk that, by using our services, you may lose or win money, (B) you are at least 18 years of age, (C) you are legally able to enter into contracts, (D) you are not a person barred from receiving or using Services under federal, state, local, or other laws, and (E) you are the rightful owner of the money which you at any time deposit into or withdraw from your account.

You acknowledge and agree that Somera may close, suspend, investigate, monitor, or limit your access to your account or any other account associated with the Website or Services, without prior notice to you. You acknowledge, understand, and agree that you do not have an expectation of privacy in activities related to the Website or any Services.

## **XI. PASSWORD PROTECTED AREAS OF OUR WEBSITE**

For your protection, certain areas of the Website and access to certain Services may be password protected. You are responsible for maintaining the confidentiality of your passwords. We have the right to assume that anyone accessing the Website and Services using a password assigned to you has the right to do so. You will be solely responsible for the activities of anyone accessing the Website and Services using a password assigned to you, even if the individual is not, in fact authorized by you. If you have reason to believe that your password has been compromised or used without authorization, you must promptly change it using the functionality provided on the Website or Services.

In order to access or use some of the features on the Website and Services you may have to become a registered user. If you become a registered user, you will provide true, accurate, current and complete information about you as may be prompted by any registration forms, if such information changes, you will promptly update the relevant registration information. We reserve the right to terminate your account or otherwise deny you access to the Website and Services in our sole discretion for any or no reason without notice and without liability.

## **XII. THIRD PARTY WEBSITES**

The Website and Services may contain links to third party websites that are not owned or controlled by Somera. Somera has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, Somera will not and cannot censor or edit the content of any third-party site. By using the Website or Services you expressly relieve Somera from any and all liability arising from your use of any third-party website. We encourage you to be aware when you leave the Website or Service and to read the terms and conditions of each other website that you visit.

## **XIII. AGREEMENT TO FOLLOW APPLICABLE LAWS**

You certify that you will comply with all applicable laws (e.g., local, state, and federal laws) when using the Website or any Services or Somera Content as permitted and in accordance with this Agreement. You will be responsible for any cost, expense, fee, liability of any kind, and attorney's fees that Somera incurs if you break the law, misuse the services or information Somera provides, or breach this Agreement. And if you break the law, misuse the services or information Somera provides, or breach this Agreement, you acknowledge and agree that you will reimburse, indemnify, and hold harmless Somera, its subsidiaries, its affiliated companies, and the employees, directors, officers, and agents of all aforementioned companies, from any money damages, costs, expenses, losses, liabilities, and attorney's fees resulting from any claim, threat, demand, suit, or investigation brought by another person, entity, or government. Without waiving any of these rights, Somera may at its sole discretion defend itself against any such claim, threat, demand, suit, or investigation without your consent. All of your obligations in this paragraph survive and continue after any termination of this Agreement.

## **XIV. ADDITIONAL PRIVACY TERMS**

Somera May Collect, Use, and Disclose Your Location, Personal, and Non-Personal Information. Please visit <http://someracapital.com/privacy-policy> to see Somera's complete privacy policy. That privacy policy may be updated from time to time, so please review it regularly. By opening and maintaining an account associated with the Website or Services, you are consenting to the collection, use, disclosure, transfer, and sharing of your location, nonpublic personal, and non-personal information by Somera, its subsidiaries, and its affiliated companies may share such information with companies other than Somera, its subsidiaries, and its affiliates. If you do not accept the terms of Somera's privacy policy or the specific privacy policy associated with a Service, please close your account and discontinue all use of the Website or Service.

## **XV. DIGITAL MILLENNIUM COPYRIGHT ACT**

If you are a copyright owner or an agent thereof and believe that any user submission or other content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing Somera with the following information in writing (see 17 U.S.C 512(c)(3) for further detail):

A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;

Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit the service provider to locate the material;

Information reasonably sufficient to permit the service provider to contact you, such as an address, telephone number, and, if available, an electronic mail address;

A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and

A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

DMCA claims may be sent to the following address:

Somera Capital Management  
115 West Canon Perdido Street  
Santa Barbara, CA 93101

Or, please email us at [nford@someracapital.com](mailto:nford@someracapital.com).

## **XVI. DISPUTE RESOLUTION**

### **PLEASE READ THIS CAREFULLY. IT AFFECTS YOUR RIGHTS.**

YOU AGREE THAT BY USING THE SERVICE OR, YOU ARE WAIVING THE RIGHT TO A COURT OR JURY TRIAL OR TO PARTICIPATE IN A CLASS ACTION. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST SOMERA ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS, REPRESENTATIVE, OR COLLECTIVE PROCEEDING. ANY ARBITRATION WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED.

YOU AGREE THAT ANY AND ALL CLAIMS AND DISPUTES ARISING FROM OR RELATING IN ANY WAY TO THE SUBJECT MATTER OF THESE TERMS, YOUR USE OF THE SERVICE, OR YOUR DEALINGS WITH SOMERA SHALL BE FINALLY SETTLED AND RESOLVED THROUGH BINDING INDIVIDUAL ARBITRATION AS DESCRIBED IN THIS SECTION. THIS AGREEMENT TO ARBITRATE IS INTENDED TO BE INTERPRETED BROADLY. THE ARBITRATION WILL BE GOVERNED BY THE



COMMERCIAL ARBITRATION RULES AND THE SUPPLEMENTARY PROCEDURES FOR CONSUMER RELATED DISPUTES OF THE AMERICAN ARBITRATION ASSOCIATION (“AAA”), AS MODIFIED BY THIS SECTION. THE ARBITRATION WILL BE CONDUCTED USING ONE ARBITRATOR WITH SUBSTANTIAL EXPERIENCE IN RESOLVING COMMERCIAL CONTRACT DISPUTES, WHO SHALL BE SELECTED FROM THE APPROPRIATE LIST OF ARBITRATORS IN ACCORDANCE WITH THE ARBITRATION RULES AND PROCEDURES OF ANY ARBITRATION ORGANIZATION OR ARBITRATOR THAT YOU AND SOMERA AGREE UPON IN WRITING OR THAT IS APPOINTED PURSUANT TO SECTION 5 OF THE FEDERAL ARBITRATION ACT. FOR ANY CLAIM WHERE THE TOTAL AMOUNT OF THE AWARD SOUGHT IS \$10,000 OR LESS, THE ARBITRATOR, YOU MUST ABIDE BY THE FOLLOWING RULES: (A) THE ARBITRATION SHALL BE CONDUCTED SOLELY BASED ON TELEPHONE OR ONLINE APPEARANCES AND/OR WRITTEN SUBMISSIONS; AND (B) THE ARBITRATION SHALL NOT INVOLVE ANY PERSONAL APPEARANCE BY THE PARTIES OR WITNESSES UNLESS OTHERWISE MUTUALLY AGREED BY THE PARTIES. IF THE CLAIM EXCEEDS \$10,000, THE RIGHT TO A HEARING WILL BE DETERMINED BY THE AAA RULES, AND THE HEARING (IF ANY) MUST TAKE PLACE IN SANTA BARBARA, CALIFORNIA. THE ARBITRATOR’S RULING IS BINDING AND MAY BE ENTERED AS A JUDGMENT IN ANY COURT OF COMPETENT JURISDICTION, OR APPLICATION MAY BE MADE TO SUCH COURT FOR JUDICIAL ACCEPTANCE OF ANY AWARD AND AN ORDER OF ENFORCEMENT, AS THE CASE MAY BE.

THERE IS NO JUDGE OR JURY IN ARBITRATION. ARBITRATION PROCEDURES ARE SIMPLER AND MORE LIMITED THAN RULES APPLICABLE IN COURT AND REVIEW BY A COURT IS LIMITED. YOU WILL NOT BE ABLE TO HAVE A COURT OR JURY TRIAL OR PARTICIPATE IN A CLASS ACTION OR CLASS ARBITRATION. YOU UNDERSTAND AND AGREE THAT BY AGREEING TO RESOLVE ANY DISPUTE THROUGH INDIVIDUAL ARBITRATION, YOU ARE WAIVING THE RIGHT TO A COURT OR JURY TRIAL. ANY DISPUTE SHALL BE ARBITRATED ON AN INDIVIDUAL BASIS, AND NOT AS A CLASS ACTION, REPRESENTATIVE ACTION, CLASS ARBITRATION OR ANY SIMILAR PROCEEDING. THE ARBITRATOR MAY NOT CONSOLIDATE THE CLAIMS OF MULTIPLE PARTIES.

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING IN ANY WAY TO THESE TERMS, YOUR USE OF THE SERVICE, OR YOUR DEALINGS WITH SOMERA MUST BE COMMENCED IN ARBITRATION WITHIN TWO (2) YEARS AFTER THE CAUSE OF ACTION ACCRUES. AFTER THAT TWO (2)-YEAR PERIOD, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED. SOME JURISDICTIONS DO NOT ALLOW TIME LIMITATIONS OTHER THAN THOSE SET FORTH IN SUCH STATE’S STATUTE OF LIMITATIONS LAWS. IN SUCH CASES, THE APPLICABLE STATUTE OF LIMITATIONS PROVIDED FOR UNDER THE LAWS OF SUCH STATE SHALL APPLY.

YOU AGREE THAT ALL CHALLENGES TO THE VALIDITY AND APPLICABILITY OF THE ARBITRATION PROVISION—I.E. WHETHER A PARTICULAR CLAIM OR

DISPUTE IS SUBJECT TO ARBITRATION—SHALL BE DETERMINED BY THE ARBITRATOR. NOTWITHSTANDING ANY PROVISION IN THESE TERMS TO THE CONTRARY, IF THE CLASS-ACTION WAIVER ABOVE IS DEEMED INVALID OR UNENFORCEABLE YOU AGREE THAT YOU SHALL NOT SEEK TO, AND WAIVE ANY RIGHT TO, ARBITRATE CLASS OR COLLECTIVE CLAIMS. IF THE ARBITRATION PROVISION IN THIS SECTION IS FOUND UNENFORCEABLE OR TO NOT APPLY FOR A GIVEN DISPUTE, THEN THE PROCEEDING MUST BE BROUGHT EXCLUSIVELY IN THE STATE COURTS OF COMPETENT JURISDICTION OR THE UNITED STATES DISTRICT COURT LOCATED IN SANTA BARBARA, CALIFORNIA, AS APPROPRIATE, AND YOU AGREE TO SUBMIT TO THE PERSONAL JURISDICTION OF EACH OF THESE COURTS FOR THE PURPOSE OF LITIGATING SUCH CLAIMS OR DISPUTES, AND YOU STILL WAIVE YOUR RIGHT TO A JURY TRIAL, WAIVE YOUR RIGHT TO INITIATE OR PROCEED IN A CLASS OR COLLECTIVE ACTION, AND REMAIN BOUND BY ANY AND ALL LIMITATIONS ON LIABILITY AND DAMAGES INCLUDED IN THESE TERMS. THIS ARBITRATION AGREEMENT WILL SURVIVE TERMINATION OF YOUR USE OF THE SERVICE AND YOUR RELATIONSHIP WITH SOMERA. THIS ARBITRATION AGREEMENT INVOLVES INTERSTATE COMMERCE AND, THEREFORE, SHALL BE GOVERNED BY THE FEDERAL ARBITRATION ACT, 9 U.S.C. §§ 1-16 (“FAA”), AND NOT BY STATE LAW. INFORMATION ON AAA AND HOW TO START ARBITRATION CAN BE FOUND AT WWW.ADR.ORG.

IF YOU WISH TO OPT-OUT OF THE AGREEMENT TO ARBITRATE, WITHIN 45 DAYS OF WHEN YOU FIRST USE THE SERVICE OR SUBMIT THROUGH THE SERVICE A REQUEST FOR INFORMATION, YOU MUST SEND US A LETTER STATING, “REQUEST TO OPT-OUT OF AGREEMENT TO ARBITRATE” AT THE FOLLOWING ADDRESS:

Somera Capital Management  
115 West Canon Perdido Street  
Santa Barbara, CA 93101  
Email: [nford@someracapital.com](mailto:nford@someracapital.com)  
Telephone: (805)-681-0144

In the event you opt out of the arbitration provision, you agree to litigate exclusively in the state or Federal courts in Santa Barbara, California and you hereby consent and submit to the personal jurisdiction of such courts for the purpose of litigating any such action. These Terms will be governed by the laws of the State of California, without giving effect to any principles of conflicts of laws.

## **XVII. DISCLAIMER OF WARRANTIES**

WE MAKE NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THIS WEBSITE OR ITS CONTENT, OR ANY PRODUCT OR SERVICE AVAILABLE ON OR PROMOTED THROUGH THIS WEBSITE. THIS WEBSITE AND ALL OF THE INFORMATION, PRODUCTS AND SERVICES MADE AVAILABLE THROUGH THIS WEBSITE ARE PROVIDED ON AN “AS IS,” “AS AVAILABLE” BASIS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. TO THE FULLEST EXTENT PERMITTED BY LAW, WE AND OUR AFFILIATES DISCLAIM ANY AND ALL

REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THIS WEBSITE AND THE INFORMATION, PRODUCTS AND SERVICES MADE AVAILABLE THROUGH THIS WEBSITE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE AND OUR AFFILIATES DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, (A) OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; (B) ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE; (C) RELATING TO THE SECURITY OF OUR SITES; (D) THAT THE CONTENT OF OUR SITES IS ACCURATE, COMPLETE, CURRENT OR RELIABLE; AND (E) THAT OUR SITES WILL OPERATE WITHOUT INTERRUPTION OR ERROR.

SOMERA DOES NOT ENDORSE AND IS NOT RESPONSIBLE FOR STATEMENTS, ADVICE AND OPINIONS MADE BY ANYONE OTHER THAN AUTHORIZED SOMERA SPOKESPERSONS. WE DO NOT ENDORSE AND ARE NOT RESPONSIBLE FOR ANY STATEMENTS, ADVICE OR OPINIONS CONTAINED IN USER CONTRIBUTIONS AND SUCH STATEMENTS, ADVICE AND OPINIONS DO NOT IN ANY WAY REFLECT THE STATEMENTS, ADVICE AND OPINIONS OF SOMERA. WE DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES AGAINST THE POSSIBILITY OF DELETION, MISDELIVERY OR FAILURE TO STORE COMMUNICATIONS, PERSONALIZED SETTINGS, OR OTHER DATA.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. ACCORDINGLY, SOME OF THE ABOVE DISCLAIMERS OF WARRANTIES MAY NOT APPLY TO YOU.

### **XVIII. LIMITATION ON LIABILITY**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AND WITHOUT LIMITING ANYTHING ELSE IN THESE TERMS, OUR ENTIRE LIABILITY AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE USE OF THE WEBSITE AND SERVICES WILL BE: THE AMOUNT OF \$2,000.

IN NO EVENT WILL WE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING FROM YOUR USE OF THE WEBSITE OR SERVICES OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF THE WEBSITE OR SERVICES. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS OUR LIABILITY WILL BE LIMITED TO THE EXTENT PERMITTED BY APPLICABLE LAW.

THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, OR WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS

DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”.

IF YOU ARE ACCESSING THE SERVICE FROM NEW JERSEY, YOU (A) ASSUME ALL RISKS OF LOSSES OR DAMAGES RESULTING FROM YOUR USE OF OR INABILITY TO USE THE SERVICE; (B) IRREVOCABLY WAIVE ALL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOST PROFITS, LOST DATA OR BUSINESS INTERRUPTION) THAT MAY OCCUR AS A RESULT OF YOUR USE OF THE SERVICE; AND (C) EXPRESSLY AGREE TO RELEASE AND DISCHARGE SOMERA AND ITS AFFILIATES, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS, OR ASSIGNS FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION RESULTING, DIRECTLY OR INDIRECTLY, FROM YOUR USE OF THE SERVICE; AND (D) YOU VOLUNTARILY GIVE UP OR WAIVE ANY RIGHT THAT YOU MAY OTHERWISE HAVE TO BRING A LEGAL ACTION AGAINST SOMERA FOR LOSSES OR DAMAGES, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHER LEGAL THEORY, INCLUDING ANY CLAIM BASED ON ALLEGED NEGLIGENCE ON THE PART OF SOMERA AND THEIR AGENTS AND EMPLOYEES. YOU ACKNOWLEDGE THAT YOU HAVE CAREFULLY READ THIS “WAIVER AND RELEASE” AND FULLY UNDERSTAND THAT IT IS A RELEASE OF LIABILITY.

#### **XIX. INDEMNIFICATION**

You agree to defend, indemnify and hold harmless Somera, its affiliates, licensors and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys’ fees) arising out of or relating to your violation of these Terms or your use of the Website or Services other than as expressly authorized in these Terms or your use of any information obtained from the Website and Services.

#### **XX. TERMINATION**

Somera may cancel, suspend or block your use of the Website and Services without notice if there has been a violation of these Terms or our Privacy Policy. Your right to use the Website and Services will end once your account is terminated, and any data you have stored on the Website and Services may be unavailable later, unless Somera is required to retain it by law. You may terminate your Member Account at any time. Somera is not responsible or liable for any

records or information that is made unavailable to you as the result of your termination of your Member Account. YOU AGREE THAT SOMERA WILL NOT BE LIABLE TO YOU OR ANY OTHER PARTY FOR ANY TERMINATION OF YOUR ACCESS TO THE WEBSITE AND SERVICES. Any limitations on liability that favor Somera will survive the expiration or termination of these Terms for any reason.

## **XXI. OTHER TERMS**

Somera's failure to enforce any provision of these Terms shall not be deemed a waiver of such provision nor of the right to enforce such provision. If any part of these Terms are determined to be invalid or unenforceable pursuant to applicable law, including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms shall continue in effect. A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

## **XXII. CONTACT INFORMATION**

You may contact us for any reason, including to report potential violations of the Terms or Rules by others, by email at [nford@someracapital.com](mailto:nford@someracapital.com) or by calling (805)-681-0144