

# PURCHASE AND SALE AGREEMENT

Date: December \_\_\_\_, 2012

**SELLER:** Gabriel A. Lujan, President  
Denali-Mesa Corporation  
D.b.a. Frontier Physical Therapy  
907 E. Dowling Rd., Suite 26  
Anchorage, AK, 99518 ("Business Seller")

**PURCHASER:** Richard L. Davis, Chief Executive Officer  
Central Peninsula General Hospital, Inc. D.b.a. Central  
Peninsula Hospital ("CPGH, Inc.")

Brokerage: Matthew Fink, Dynamic Properties, Inc., (907) 261-7620

## I. PURCHASE PRICE AND EARNEST MONEY:

Upon mutual acceptance of this Agreement, the Purchaser shall deposit the sum of Fifty Thousand Dollars and no cents (\$50,000.00) into the trust account of Dynamic Properties, Inc., as Earnest Money on and part payment for the business assets including equipment, furniture, inventory, trade fixtures, goodwill, trademarks, leases and other intangible assets of that business known as **Frontier Therapy Services** located at **108 East Corral Street, Soldotna, Alaska 99669** and **260 Caviar Street, Kenai, Alaska 99611** all collectively known as the "**Property**" and as described in further detail below, which property the payer of the above deposit herewith agrees to purchase for the total price of **One Million One Hundred Eighty-Five Thousand Dollars (\$1,185,000.00)**, on which sum the above deposit will apply.

## II. DESCRIPTION OF PROPERTY:

1. All furniture, fixtures, equipment, electronics, software, tools, systems, inventory and machinery now owned or hereafter acquired, attached Exhibit "A".

2. All clients, contract rights, customers, vendor's agreements, service contracts existing as of the date of closing.

3. Trade name "Frontier Therapy Services" along with all logos, trademarks, letterhead, advertising, pre-printed material such as brochures and other collateral material identifying and representing the business.

4. All other business assets dedicated to and pertinent to this business, including but not limited to telephone numbers, fax numbers, mailing lists, customer lists, white page listings and yellow page advertising.

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Accounts receivable of record as of midnight the night before closing shall not be included in the sale, not part of the purchase price and will be retained by Seller at closing. Seller will provide a detailed list of such receivables at closing as Exhibit B. Purchaser shall immediately pay over to Seller any accounts receivable paid to Purchaser, which are due to the Seller. Purchaser is not responsible for the collection of accounts due to Seller nor will Purchaser make efforts toward collection of such accounts.

**III. PURCHASE TERMS:**

Purchaser shall pay **One Million One Hundred Eighty-Five Thousand Dollars (\$1,185,000.00) for the Property** including earnest money at closing.

**IV. CLOSING:**

A) The consummation of the purchase and sale of the Property (Closing) shall be coordinated by and take place at the office of First American Title Company on or before **January 31, 2013, with a simultaneous closing of the Real Property and Improvements to the Kenai Peninsula Borough.** Closing can be extended by mutual written consent.

B) The Purchase Price shall be paid and all documents necessary for the consummation of this transaction shall be executed and delivered on or prior to the Closing Date, and Seller shall deliver possession of the Property to Purchaser on recording.

C) At or prior to Closing, Seller shall deposit the following documents in escrow with the Title Company:

i. A bill of sale in recordable form executed on behalf of Seller, conveying good title to Purchaser of the Property described above;

ii. Such conveyance or transfer tax forms, if any, as are required to be delivered or signed by Seller by applicable state and local law in connection with the conveyance of the Property.

iii. Evidence of the existence, organization and authority of Seller and the authority of the persons executing documents on behalf of Seller reasonably satisfactory to the underwriter for the Title Policy.

iv. Any additional documents that Purchaser or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

D) At or prior to Closing, Purchaser shall deposit the following in escrow with the Title Company:

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- i. The remainder of the Purchase Price.
- ii. Such conveyance or transfer tax forms, if any, as are required to be delivered or signed by Purchaser by applicable state and local law in connection with the conveyance of the Property.
- iii. Evidence of the existence, organization and authority of Purchaser and of the authority of the persons executing documents on behalf of Purchaser reasonably satisfactory to the underwriter for the Title Policy.
- iv. Any additional documents that Seller or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

**V. PURCHASE PRICE ALLOCATION:**

The allocation of the total purchase price shall be as follows:

(i) Frontier Therapy Services Business	\$1,185,000.00
(ii) Furniture, fixtures and equipment:	_____
(iii) Clients and contract rights:	_____
(iv) Goodwill:	_____
(v) Non-Compete Agreement	_____
 Total Purchase Price:	 \$1,185,000.00

Allocation of the Purchase Price shall be mutually agreed to by the Parties prior to the expiration of the due diligence period.

**VI. PURCHASERS FINANCING:**

Purchaser shall provide Seller a qualifying letter from a financial institution or verification of funds to close this transaction by no later than **December 31, 2012**.

**VII. PURCHASERS DUE DILIGENCE:**

The Purchaser shall have a period up to **January 20, 2013** to complete their due diligence which began August 1, 2012. The Purchaser shall notify the Seller prior to the expiration of the due diligence period, in writing, in the event the Purchaser, in its sole discretion, declines the property for *any reason* in which event this transaction shall be terminated and the earnest money refunded in full to the Purchaser.

This Agreement is specifically subject to the Purchase being approved by the Board of Directors of the Purchaser and the Kenai Borough Assembly and Mayor, and is specifically subject to the availability and appropriation of funds for payment of the

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purchase price from the CPGH, Inc. Plant Replacement and Expansion Fund ("PREF"). If the CPGH, Inc. Board of Directors fails to approve by resolution the Purchase and the transfer of funds for the purchase price from the PREF or if the Kenai Peninsula Borough Assembly fails to enact an ordinance approving the Purchase and appropriating funds from the PREF for payment of the purchase price, this agreement shall be terminated without penalty.

This Agreement is subject to a simultaneous sale of the Real Property and Improvements (Real Estate) to the Kenai Borough where the Property is located.

All additional information requested of Seller shall be provided as soon as possible to effectuate Purchasers due diligence completion. All Purchaser contingencies to be either accepted completed and/or waived by the timeline above, but in no event later than **January 20, 2012**. Should Purchaser want to extend the timeline in any of the contingencies, Purchaser to request the same in writing prior to its expiration. Seller, at its sole discretion, may agree to extend the due diligence period. The earnest money will become non-refundable as of **January 21, 2013**.

**VIII. PURCHASE TERMS AND CONDITIONS:**

1. All the Property is being sold "AS IS, WHERE IS". Seller is not making any representations, implied or expressed, as to the condition or of any aspect of the Property. Purchaser is advised to conduct all of its own inspections prior to purchasing this Property. Purchaser is purchasing the Property in its current condition and configuration. Although this is an "AS IS" sale, Purchaser's obligation to purchase the Property is expressly conditioned on the Purchaser's approval, in its sole discretion, of the condition of the Property. In addition, purchase of the property is subject to the Purchaser's review of equipment purchase contracts or equipment leases, if any, affecting the Property; and such equipment purchase contracts or equipment leases being satisfactory to Purchaser.

2. Seller shall pay the following closing costs where applicable to each:

- a) 1/2 recording fee
- b) 1/2 documentation preparation fee
- c) 1/2 escrow closing fee
- d) Own attorney's fees
- e) UCC search at the State and the applicable District for each entity, business and/or person, associated with the business.
- f) Fees for releasing UCC statements filed against the Seller
- g) Brokerage fee to Dynamic Properties, Inc.

3. Purchaser shall pay the following closing costs:

- a) 1/2 recording fee

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- b) ½ documentation preparation fee
- c) ½ escrow closing fee
- d) All Purchasers financing fees including appraisals, if applicable.
- e) All other fees associated with Purchaser s due diligence inspections
- f) Own attorney fees

4. Seller to provide Purchaser, if requested, with training and consulting services for a period of Sixty (60) days following closing at no additional cost to Purchaser. The training and consulting to be conducted during regular business hours at up to 20 hours per week, at Purchasers option. In addition, Seller will be available via phone for consultation for up to six months after closing to ensure a smooth transition.

5. Property taxes shall be prorated to the date of closing, except as otherwise expressly provided in this Agreement, all prorations provided for shall be final. For purposes of all prorations provided for in this Agreement, Seller shall be responsible for all days up to the Closing Date, and Purchaser shall be responsible for Closing Date and all days after Closing.

6. Prepaid expenses relating to the business assets, including but not limited to utilities and payroll, paid by Seller and relating to periods after the closing date, shall be prorated at closing, if applicable.

7. All Property shall be transferred to the Purchaser by bill of sale, free and clear of any liens or encumbrances.

8. Purchaser assumes no liability relative to the operating business herein for any debts, payables or obligations of any nature, whether accrued, absolute, contingent or otherwise, and whether due or to become due except where Purchaser will agree at closing to assume all continuous open client care as prescribed and monthly telephone directory costs. Seller shall be obligated to satisfy all other accounts payable due on open accounts up until the closing of this transaction unless otherwise mutually agreed to in writing prior to closing.

9. Seller hereby indemnifies and holds the Purchaser harmless from and against any loss, cost claim, liability, or expense suffered or incurred by Purchaser from and after the date of closing arising from or connected to Seller's ownership of Property prior to the closing excluding as agreed to in 9 above.

10. Purchaser hereby indemnifies and holds the Seller harmless from and against any loss, cost claim, liability, or expense suffered or incurred by Seller from and after the date of closing arising from or connected with Purchasers ownership of the Property purchased herein.

11. Purchaser may form a new entity prior to closing and transfer the rights to this agreement to the entity for closing purposes. Seller agrees to allow Purchaser to assign

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this agreement to the new entity.

12. This document and the referenced attachment(s), if any, consisting of \_\_\_\_\_ ( ) pages, contain the entire Agreement between the parties. There are no understandings, oral or written, which in any manner change or enlarge what is set forth herein. The plural shall include the singular. It may not be modified except in writing signed by both parties.

13. It is mutually agreed upon by all parties that the Broker and/or their Licensee shall not be held liable in any manner whatsoever for damages arising from defaults or acts by or upon the part of either party to this Agreement.

14. In the event that the Broker is unable to determine to his satisfaction which party is responsible for failing to perform the requirements of this Agreement, the Broker shall request the Parties to execute an agreement for release of the earnest monies to one or the other party. Broker need not disburse earnest monies until an Agreement is signed. Alternatively, Broker may: (a) with Purchaser's and Seller's consent, submit the matter to an agreed upon arbitrator or mediator; or (b) interplead the earnest money with the courts for determination of who is entitled to the earnest monies. The Broker shall be entitled to an award, from the earnest monies, of reasonable attorney's fee and cost for interpleading the earnest money.

15. All parties agree that a facsimile transmission of any original document shall have the same effect as an original. Any signature required on an original document shall be completed when a facsimile copy has been signed, except for documents to be recorded which required original signatures. The parties agree that facsimile copies of documents shall be appended to the original thereof, integrated therewith and given full effect as if an original.

16. Seller and Purchaser hereby acknowledge Dynamic Properties, Inc. as licensee for the Seller and will provide the Purchaser with specific assistance in this transaction. **The Purchaser and Seller are hereby formally advised to seek legal and tax advice regarding this document and the financial outcome of this transaction. Dynamic Properties, Inc. / Matthew Fink are not authorized and have not given any legal or tax advice.**

17. This transaction shall close in the escrow offices of **First American Title**.

18. Purchaser, by his signature below, hereby certifies that all information provided by the Seller shall be treated in a strictly confidential manner for the purpose of confirming their interest in completing the purchase of the Property described herein and for no other purpose. Purchaser shall not share this information with outsiders or competitors of the Seller, subject to the following exceptions: Purchaser may share this information with (1) Purchaser's own attorneys and consultants; (2) the Mayor and Administration of the Kenai Peninsula Borough under claim of confidentiality; (3) such information may be

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made public as may be reasonable and necessary to obtain Borough Assembly approval and appropriation of funds from the PREF for payment of the purchase price.

19. Seller represents and warrants, based upon its actual knowledge, and without obligation to conduct additional investigation, as of the date hereof and as of the Closing Date that:

a. To the best of Seller's knowledge, Seller has received no notice from any governmental authority of any pending or threatened i) zoning, building fire, or health code violations or violations of other governmental requirements or regulations with respect to the Buildings that have not previously been corrected, or (ii) any condemnation of the Building. Seller further warrants and represents that in the event it receives any such notice prior to the Closing Date, it will provide to Purchaser copies of any such notice immediately.

b. The lease agreements in place for both buildings will be cancelled as of the recording date of the sale with a simultaneous sale of the real property to the Kenai Borough.

c. That they are duly qualified and authorized to do business and are in good standing in the State of Alaska.

d. That they have paid all income, and other taxes which are payable by it relative to the Property herein to all United States (federal, state and local) taxing authority.

e. Seller is the owner of the Property and has full power to transfer the Property free and clear of all liens, encumbrances, security interests, equities, options, claims, charges, and restrictions.

f. Seller has and on the date of closing will have complied with all material laws, rules, regulations and orders applicable to the operations of Seller's business and the sale of the Property.

g. Seller will, from the date of mutual agreement of this offer until closing, use its best efforts to preserve all existing business relationships with clients, suppliers, employees, and use its best efforts to obtain customers and preserve existing customer relationships.

The representations and warranties contained in this Section shall survive Closing.

20. Seller's Covenants. Between the date of the execution of this Agreement and the Closing, Seller shall:

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a. Maintain the Property in its present condition, and not permit any changes or alterations to or upon the Property.

b. Not permit any lien or other encumbrance affecting the Property to be foreclosed.

21. Purchaser represents and warrants, based upon its actual knowledge, and without obligation to conduct additional investigation, as of the date hereof and as of the Closing Date that:

a. That they are financially qualified to purchase this Property and are in good standing in the State of Alaska.

b. Purchasers are currently not in any type of Bankruptcy proceedings or any other type of litigation that could hamper their ability to purchase this Property.

c. Purchaser has and on the date of closing will have complied with all material laws, rules, regulations and orders applicable to the purchase of this Property.

22. Risk of Loss. Seller shall bear all risk of loss with respect to the Property up to the earlier of the date upon which either possession or title to the Property is transferred to Purchaser in accordance with this Agreement. Notwithstanding the foregoing, in the event material damage of the Property prior to the Closing Date occurs, Purchaser may:

a. Terminate its obligations under this Agreement and receive a full refund of the earnest money; or

b. Proceed with the Closing, in which event Seller shall assign all Seller's right, title and interest in and to any insurance proceeds to Purchaser if applicable.

23. In the event Purchaser fails to perform the obligations set forth in this Agreement, (except as excused by Seller's default), Seller will make written demand for performance. If the Purchaser fails to comply with such written demand within Ten (10) days after receipt hereof, Seller will have option to waive such default, demand specific performance, or terminate this Agreement and, on such termination, all the earnest money will be forfeited to the Seller.

24. In the event Seller fails to perform the obligations set forth in this Agreement, (except as excused by the Purchaser's default), Purchaser will make written demand for performance. If the Seller fails to comply with such written demand within Ten (10) days after receipt hereof, Purchaser will have option to waive such default, demand specific performance, or terminate this Agreement and, on such termination, the earnest money will be refunded to the Purchaser.

25. Purchaser, Seller, and Broker agree that in the event any litigation is instituted to collect any sum due broker to enforce or interpret any of the provisions of this

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agreement, the prevailing party or parties shall be entitled to recover from the other(s) their reasonable attorneys fees and court costs including appeals, as determined by the court in such action or suit.

26. Purchaser and Seller hereby authorize the lending institution to furnish Broker / Licensee with closing statements upon request. Purchaser and Seller authorize all lenders, escrow Agents and appraisers to furnish the listing licensees, on request, any and all information and copies of documents, concerning the status, progress, and final disposition of: loans, credit, appraisal, closing, conveyances and any and all other matter related to this sale.

27. Notices. All notices, waiver, election, approvals and demands required or permitted to be given hereunder shall be in writing, via email with confirmation of receipt, mailed postage prepaid, certified mail, return receipt requested, or transmitted by facsimile to the address for each party as designated herein. Either party hereto may, by proper notice to the other designate any other address for the giving of notice. Any notice shall be effective when personally delivered or, if mailed as provided herein, on the earlier of actual receipt or three (3) days after the date deposited in the mail, or in the case of facsimile notice or email, when sent, if answered back or confirmation is received.

Notice for Seller and Purchaser: Matthew Fink / Dynamic Properties, Inc.  
3111 C Street, Suite 100  
Anchorage, Alaska 99503

28. Time is of the essence in this contract. Time periods specified in this Agreement shall expire at midnight on the date stated unless the parties agree in writing to a different date/or/time.

29. Employee Matters. Certain Responsibilities of Seller. Purchaser shall be under no obligation to hire any employees of Seller. Purchaser may interview all employees of Seller, through Seller orchestrated interviews, after the expiration of the Due Diligence Period. Seller shall be solely responsible for and shall satisfy all of Seller's obligations to its employees on account of its employees' employment by Seller, including, without limitation, any liability for employment agreements, accrued wages (including salaries and commissions), severance benefits, "COBRA" benefits, vacation pay, pension and profit sharing contributions, seniority rights or other forms of benefits of any type or nature on account of said employee' employment by Seller.

30. Hired Employees. Purchaser shall have a right to make offers of employment to any of Seller's employees after due diligence is completed and only through Seller orchestrated interviews. Seller will terminate the employment of any remaining employees working for Seller effective as of the date and time of Recording, and will give such notices and perform such other obligations as may be required in connection therewith and the transactions contemplated by this Agreement. It is understood and agreed that employment by, or an offer of employment to, employees of Seller by Purchaser shall not constitute any commitment, contract, obligation or understanding (express or implied) on the part of Seller to a post-Closing Date employment

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relationship of any fixed term or duration. Any employment with Purchaser may be terminated by Purchaser at any time for any reason.

31. Gender. Words of any gender used in this Agreement will be held and construed to include any other gender, and words in the singular number will be held to include the plural and vice versa, unless the context requires otherwise.

32. Construction: Severability. No provisions of this Agreement will be construed by any court or other judicial authority against any party by reason of such party being deemed to have drafted or structured such provisions. If any provisions of this Agreement or application to any party or circumstances is determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which is so determined invalid or unenforceable, will not be affected and every other provision of this Agreement will be valid and will be enforced to the fullest extent permitted by law.

33. Governing Law. This Agreement will be construed, and the obligations of the parties, will be determined in accordance with the laws of the State of Alaska.

34. Attorney's Fees. In the event either party hereto employs an attorney in connection with claims by one party against the other arising under this Agreement, the non-prevailing party shall pay the prevailing party all reasonable fees and expenses, including attorneys' fees, incurred in connection with such claims.

35. IRC Section 1031 Cooperation. Each party understands that the other party may structure the sale of the property to assure that the transaction qualifies as a 'like-kind exchange' of real estate pursuant to Section 1031 of the Internal Revenue Code of 1986, in accordance with the terms and provisions hereinafter provided. Such cooperation may include purchasing the property from a qualified intermediary, as such term is defined in the Code and the Regulations promulgated there under; establishing an escrow account (with appropriate escrow executing such further documentation as may be reasonably necessary, to qualify the transaction as a 'like-kind exchange,' allowing the qualified intermediary to convey the Property to Purchaser; establishing an escrow account to hold the proceeds from the Purchaser's purchase of the Property in the event exchange property is not acquired on or before the acquisition of the Property; and executing all documentation reasonably required to allow the qualified intermediary to acquire the real estate identified by Seller and transfer the same to Seller. Such cooperation shall not be deemed to require waiver of any rights under other provisions of this Agreement.

36. Third Parties. The provisions of this Agreement and of the documents to be executed and delivered at closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

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37. All the final sale documents to be reviewed and approved by the Seller's and Purchaser's attorneys prior to closing. Purchaser hereby designates \_\_\_\_\_ as its lawful attorney to review and approve all legal documents necessary to complete this transaction. Seller hereby designates \_\_\_\_\_ as its lawful attorney to review and approve all legal documents necessary to complete this transaction.

38. EXPIRATION: This offer will expire if not signed by both parties by **December \_\_\_\_, 2012.**

39. Non-compete Agreement: Upon closing, Sellers agree to sign a non-compete agreement for a similar or like business in the Kenai Peninsula Borough, State of Alaska for a period of five (5) years. This agreement will be drafted and approved by both parties during the due diligence period.

**AS TO PURCHASER:** By signing this agreement, PURCHASER, hereby acknowledges that PURCHASER is relying solely on PURCHASER'S own inspection of the Property and the representations of SELLER not of Broker/Licensee with regards to the prior operating history of the business, the value of the assets being purchased and all other material facts of SELLER in making this offer. PURCHASER acknowledges that the Broker/Licensee have not verified, and will not verify, the representations of SELLER and should any such representations be untrue, PURCHASER agrees to look solely to SELLER for relief and to indemnify Broker/Licensee and hold Broker/Licensee harmless in connection with all losses and damages caused PURCHASER thereby.

**AS TO SELLER:** SELLER acknowledges that Broker/Licensee has made no representations concerning the credit worthiness or ability of PURCHASER to complete this transaction, and relies solely on PURCHASER representations and not Broker/Licensee with respect thereto. SELLER agrees to look solely to PURCHASER for relief and to indemnify Broker/Licensee and hold Broker/Licensee harmless in connection with all losses and damages caused SELLER thereby.

**ACCEPTANCE BY PURCHASER**

I/We understand that this is a legally binding contract. Purchaser has read the foregoing Offer and accepts it as representing the terms and conditions communicated to the Broker and accept full responsibility for the completeness and accuracy thereof.

**Purchaser herein acknowledges that this agreement has significant legal and financial consequences and that he/they have been advised to seek independent**

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legal and financial counsel. The broker or licensee cannot give legal advice. The person(s) executing below has (have) the authority and believe they are financially qualified to enter into this agreement for the purchase of the properties described herein.

**PURCHASER:** CPGH, Inc.

\_\_\_\_\_  
By: Richard Davis Date  
Its: Chief Executive Officer

**ACCEPTANCE BY SELLER**

I/We understand that this is a legally binding contract. Seller has read the foregoing Offer and accepts it as representing the terms and conditions communicated to the Broker and accept full responsibility for the completeness and accuracy thereof.

**Seller herein acknowledges that this agreement has significant legal and financial consequences and that they have been advised to seek independent legal and financial counsel. The broker or licensee cannot give legal advice. The person(s) executing below has (have) the authority to enter into this agreement on behalf of the entities in ownership of the properties described herein.**

**SELLER:** Denali Mesa Corporation

\_\_\_\_\_  
By: Gabriel Lujan Date  
Its: President

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