

RECEIPT OF CONDOMINIUM INFORMATION STATEMENT



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- (A) PURCHASER RECEIVED A CONDOMINIUM INFORMATION STATEMENT FROM THE SELLER BEFORE PURCHASER SIGNED THE AGREEMENT OF SALE AND PURCHASE ATTACHED HERETO.
- (B) PURCHASER ACKNOWLEDGES SELLER'S RECOMMENDATION THAT PURCHASER READ THE CONDOMINIUM INFORMATION STATEMENT BEFORE SIGNING THE AGREEMENT OF SALE AND PURCHASE ATTACHED HERETO.
- (C) HAVING RECEIVED THE CONDOMINIUM INFORMATION STATEMENT PRIOR TO SIGNING THE AGREEMENT OF SALE AND PURCHASE ATTACHED HERETO, PURCHASER DOES NOT HAVE A RIGHT OF RESCISSION PURSUANT TO SECTION 82.156(B) OF THE TEXAS UNIFORM CONDOMINIUM ACT.

**PURCHASER:**

Signed: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

Signed: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

PURCHASER: \_\_\_\_\_  
SELLER: \_\_\_\_\_  
BUILDER: \_\_\_\_\_

# **CLAWSON RIDGE CONDOMINIUMS**

## **AGREEMENT OF SALE AND PURCHASE**

### **BASIC TERMS**

<b>Seller:</b>	3700 ROOSTER, LTD., a Texas limited partnership 3616 Far West Blvd, Ste. 117-153 Austin, Texas 78731
<b>Builder</b>	Clawson Ridge Development Company, LLC, a Texas limited liability company 2900 W. Anderson Lane Suite 200-303 Austin, Texas 78757
<b>Listing Broker:</b>	Compass RE Texas, LLC 801 Barton Springs Rd 6 <sup>th</sup> Floor Austin, Texas 78704
<b>Sales Agent:</b>	Name: _____ Address: _____ Ph: _____ Cell: _____ Email: _____
<b>Purchaser:</b>	Name: _____ Address: _____ Ph: _____ Cell: _____ Email: _____
<b>Purchaser:</b>	Name: _____ Address: _____ Ph: _____ Cell: _____ Email: _____
<b>Cooperating Broker: (if applicable)</b>	_____ _____ _____ <b>Brokerage:</b> _____ <b>License Number:</b> _____ <b>Address:</b> _____ Ph: _____ Cell: _____ Email: _____
<b>Unit:</b>	Unit _____ in the Clawson Ridge Condominiums, a condominium regime, as more particularly described in <i>Section 1.03</i> below.
<b>Plan Type:</b>	Plan Number: _____ Design Package (Cabinet Color): _____ Stage of Construction: _____ Unit Type: _____
<b>Title Company:</b>	_____

	Ph: _____ Cell: _____ Email: _____
<b>PRICE:</b>	Base Price: \$ _____ Plus Upgrade Payment: \$ _____ <b>Purchase Price:</b> \$ _____
<b>Earnest Money:</b>	Three percent (3.0%) of the Base Price due as follows: <ul style="list-style-type: none"> <li>• One percent (1.0%) of the Base Price shall be due on the Effective Date of this Agreement (i.e. _____, 20__).</li> <li>• The remaining two percent (2.0%) shall be due on the date that is ninety (90) days prior to the Estimated Completion Date (i.e. _____, 20__).</li> </ul> <p>Notwithstanding the foregoing, in the event the Estimated Completion Date is less than ninety (90) days following the Effective Date of this Agreement, Purchaser shall deposit the full Earnest Money deposit of three percent (3.0%) of the Base Price on the Effective Date of this Agreement.</p> <p><i>(See Section 2.02 for further details)</i></p>
<b>Method of Purchase (check one):</b>	<input type="checkbox"/> Cash <input type="checkbox"/> Financing
<b>Selection Date:</b>	_____, 20__ (if applicable)
<b>Parking Space Number:</b>	_____
<b>Estimated Completion Date:</b>	_____, 20__ <b>*Only an estimate of completion</b>
<b>Effective Date:</b>	_____, 20__ <i>(To be filled in with date last party signs)</i>
<b>Use of Unit (check one):</b>	<input type="checkbox"/> a primary residence <input type="checkbox"/> a secondary residence <input type="checkbox"/> investment

## **RESOLUTION OF DISPUTES**

PURCHASER ACKNOWLEDGES AND AGREES THAT A "CLAIM", FOR THE PURPOSE OF THIS PARAGRAPH, INCLUDES: (1) CLAIMS UNDER THE DOCUMENTS OR THE TEXAS UNIFORM CONDOMINIUM ACT RELATING TO THE RIGHTS AND/OR DUTIES OF THE DECLARANT, THE ASSOCIATION, AND ANY OWNER OF A UNIT; (2) CLAIMS RELATING TO THE ACTS OR OMISSIONS OF THE DECLARANT, THE ASSOCIATION, THE ARCHITECTURAL REVIEWER UNDER THE DECLARATION, AND A PERSON SERVING AS A BOARD MEMBER, OR OFFICER OF THE ASSOCIATION OR THE ARCHITECTURAL REVIEWER; AND (3) CLAIMS RELATING TO THE DESIGN OR CONSTRUCTION OF THE UNITS, COMMON ELEMENTS OR ANY IMPROVEMENT IN THE REGIME. ANY CLAIM MUST BE RESOLVED IN ACCORDANCE WITH THE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE DECLARATION. PURCHASER UNDERSTANDS AND AGREES THAT SUCH DISPUTE RESOLUTION PROCEDURES ARE A MATERIAL INDUCEMENT TO SELLER'S ENTERING INTO THIS AGREEMENT AND WITHOUT SUCH AGREEMENT, SELLER WOULD NOT HAVE ENTERED INTO AN AGREEMENT TO SELL THE UNIT AT THE PURCHASE PRICE STATED HEREIN. THE DISPUTE RESOLUTION PROCEDURES IN THE DECLARATION REQUIRE BINDING ARBITRATION AND FURTHER REQUIRE THAT CERTAIN STEPS BE TAKEN AS A PRECONDITION TO INSTITUTING BINDING ARBITRATION TO RESOLVE THE CLAIM. THIS PROVISION SHALL SURVIVE THE CLOSING OF THIS TRANSACTION.

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

**NOTICE**

**This Agreement is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from the performance of this Agreement. If you have a complaint concerning a construction defect arising from the performance of this Agreement and that defect has not been corrected through normal warranty service, you must provide the notice required by Chapter 27 of the Texas Property Code to the Builder by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the Builder, you must provide the Builder an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.**

SELLER:

**3700 ROOSTER, LTD.,**  
a Texas limited partnership

By: 3700 ROOSTER GP LLC,  
a Texas limited liability company,  
its General Partner

By: \_\_\_\_\_  
Name: Paul Schultz  
Title: President

Date of Execution: \_\_\_\_\_

PURCHASER:

\_\_\_\_\_  
Purchaser's Signature  
Printed Name: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

\_\_\_\_\_  
Purchaser's Signature  
Printed Name: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

[Only Complete if a Cooperating Broker is Involved]

**REAL ESTATE BROKERS**

(i) Pursuant to (ii) below and the other terms hereof, Cooperating Broker shall earn a commission equal to 3% of the Base Price (specifically excluding any amount pursuant to the Selection and Upgrade Form). Listing Broker is representing Seller, and Seller will pay Listing Broker in accordance with a separate commission agreement.

(ii) The real estate commissions identified in (i) above will only be earned if this sale is consummated in accordance with the terms and conditions of this Agreement and Cooperating Broker is licensed by the Texas Real Estate Commission and will be paid, if due, in the County. Seller authorizes the Title Company to pay the commission due to Cooperating Broker under this Agreement from Seller's proceeds at the Closing and such commission shall be shown on the Closing Statement signed by Seller at the Closing.

(iii) Listing Broker and Cooperating Broker are not parties to this Agreement. The joinder of neither Listing Broker nor Cooperating Broker is required to amend or terminate this Agreement. This Agreement will not be amended by Seller and Purchaser to reduce the commission percentage of Cooperating Broker identified in (i) above without the consent of Cooperating Broker. Cooperating Broker waives any and all rights Cooperating Broker may claim under this Agreement or otherwise to enforce any rights or obligations between Seller and Purchaser, including, but not limited to, any claim under this Agreement or otherwise to close the transaction contemplated by the Agreement or to pursue any specific remedy Seller may have hereunder.

**COOPERATING BROKER:**

Agent Signature: \_\_\_\_\_

Agent Name: \_\_\_\_\_

Brokerage: \_\_\_\_\_

## **INFORMATION ABOUT BROKERAGE SERVICES**

11-2-2015



### **Information About Brokerage Services**

*Texas law requires all real estate license holders to give the following information about brokerage services to prospective buyers, tenants, sellers and landlords.*

#### **TYPES OF REAL ESTATE LICENSE HOLDERS:**

- **A BROKER** is responsible for all brokerage activities, including acts performed by sales agents sponsored by the broker.
- **A SALES AGENT** must be sponsored by a broker and works with clients on behalf of the broker.

#### **A BROKER'S MINIMUM DUTIES REQUIRED BY LAW (A client is the person or party that the broker represents):**

- Put the interests of the client above all others, including the broker's own interests;
- Inform the client of any material information about the property or transaction received by the broker;
- Answer the client's questions and present any offer to or counter-offer from the client; and
- Treat all parties to a real estate transaction honestly and fairly.

#### **A LICENSE HOLDER CAN REPRESENT A PARTY IN A REAL ESTATE TRANSACTION:**

**AS AGENT FOR OWNER (SELLER/LANDLORD):** The broker becomes the property owner's agent through an agreement with the owner, usually in a written listing to sell or property management agreement. An owner's agent must perform the broker's minimum duties above and must inform the owner of any material information about the property or transaction known by the agent, including information disclosed to the agent or subagent by the buyer or buyer's agent.

**AS AGENT FOR BUYER/TENANT:** The broker becomes the buyer/tenant's agent by agreeing to represent the buyer, usually through a written representation agreement. A buyer's agent must perform the broker's minimum duties above and must inform the buyer of any material information about the property or transaction known by the agent, including information disclosed to the agent by the seller or seller's agent.

**AS AGENT FOR BOTH - INTERMEDIARY:** To act as an intermediary between the parties the broker must first obtain the written agreement of *each party* to the transaction. The written agreement must state who will pay the broker and, in conspicuous bold or underlined print, set forth the broker's obligations as an intermediary. A broker who acts as an intermediary:

- Must treat all parties to the transaction impartially and fairly;
- May, with the parties' written consent, appoint a different license holder associated with the broker to each party (owner and buyer) to communicate with, provide opinions and advice to, and carry out the instructions of each party to the transaction.
- Must not, unless specifically authorized in writing to do so by the party, disclose:
  - that the owner will accept a price less than the written asking price;
  - that the buyer/tenant will pay a price greater than the price submitted in a written offer; and
  - any confidential information or any other information that a party specifically instructs the broker in writing not to disclose, unless required to do so by law.

**AS SUBAGENT:** A license holder acts as a subagent when aiding a buyer in a transaction without an agreement to represent the buyer. A subagent can assist the buyer but does not represent the buyer and must place the interests of the owner first.

#### **TO AVOID DISPUTES, ALL AGREEMENTS BETWEEN YOU AND A BROKER SHOULD BE IN WRITING AND CLEARLY ESTABLISH:**

- The broker's duties and responsibilities to you, and your obligations under the representation agreement.
- Who will pay the broker for services provided to you, when payment will be made and how the payment will be calculated.

**LICENSE HOLDER CONTACT INFORMATION:** This notice is being provided for information purposes. It does not create an obligation for you to use the broker's services. Please acknowledge receipt of this notice below and retain a copy for your records.

Licensed Broker /Broker Firm Name or Primary Assumed Business Name	License No.	Email	Phone
Designated Broker of Firm	License No.	Email	Phone
Licensed Supervisor of Sales Agent/ Associate	License No.	Email	Phone
Sales Agent/Associate's Name	License No.	Email	Phone

\_\_\_\_\_  
Buyer/Tenant/Seller/Landlord Initials

\_\_\_\_\_  
Date

Regulated by the Texas Real Estate Commission

Information available at [www.trec.texas.gov](http://www.trec.texas.gov)

IABS 1-0

**TITLE COMPANY**

Receipt of \$\_\_\_\_\_ constituting the initial installment of the Earnest Money is acknowledged. The Title Company is hereby designated as, and accepts the designation as, the "Reporting Person" pursuant to Section 6045 of the Internal Revenue Code and the regulations promulgated thereunder.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TITLE COMPANY:

By:\_\_\_\_\_

Name:\_\_\_\_\_

Title:\_\_\_\_\_



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Exhibit B	Selection and Upgrade Form
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## CLAWSON RIDGE CONDOMINIUMS

### **AGREEMENT OF SALE AND PURCHASE**

THIS AGREEMENT OF SALE AND PURCHASE (this "**Agreement**") is entered into between Seller and Purchaser, and is as follows:

#### **I.**

#### **SALE AND PURCHASE**

**1.01. Purchase and Sale of Unit.** Seller sells and agrees to convey to Purchaser, and Purchaser purchases from Seller, the Unit for the Purchase Price and subject to the terms specified in this Agreement.

**1.02. Common Elements and Assignment of Parking.** The Unit will be conveyed with an undivided interest in the common elements (the "**Common Elements**"), as identified and allocated to the Unit in the Declaration (each term being defined below), as applicable. At Closing, Seller will assign the parking space identified in the Basic Terms to the Unit using Seller's prescribed form.

**1.03. Condominium Documents.** The Unit is located in the Clawson Ridge Condominiums (the "**Regime**"), a condominium project located in Travis County, Texas, established by that certain Amended and Restated Declaration of Condominium Regime for Clawson Ridge Condominiums, recorded as Document No. 2017129504 in the Official Public Records of Travis County, Texas, as the same may be amended (the "**Declaration**") which established the Regime on the property more particularly described therein (the "**Property**").

**1.04. Condominium Information Statement.** PURCHASER ACKNOWLEDGES THAT SELLER HAS PROVIDED TO PURCHASER, PRIOR TO PURCHASER'S EXECUTION OF THIS AGREEMENT, A COPY OF THE CONDOMINIUM INFORMATION STATEMENT FOR THE UNIT, WHICH INCLUDES: (I) THE DECLARATION; (II) THE CERTIFICATE OF FORMATION FOR CLAWSON RIDGE CONDOMINIUM COMMUNITY, INC., A TEXAS NON-PROFIT CORPORATION (THE "**ASSOCIATION**"); (III) THE BYLAWS OF THE ASSOCIATION; (IV) THE RULES AND REGULATIONS; (V) THE PROJECTED BUDGET OF THE ASSOCIATION; AND (VI) ALL EXHIBITS ATTACHED TO THE CONDOMINIUM INFORMATION STATEMENT OR ANY OF THE AFOREMENTIONED DOCUMENTS (COLLECTIVELY, THE CONDOMINIUM INFORMATION STATEMENT AND THE ITEMS LISTED IN (I) THROUGH (VI) ABOVE ARE REFERRED TO HEREIN AS THE "**CONDOMINIUM DOCUMENTS**").

**PURCHASER ACKNOWLEDGES SELLER'S RECOMMENDATION THAT PURCHASER READ THE CONDOMINIUM INFORMATION STATEMENT BEFORE SIGNING THIS AGREEMENT.** Prior to execution of this Agreement, Purchaser has executed a certificate acknowledging Purchaser's receipt of the Condominium Information Statement. At Closing, Seller may again require Purchaser to sign a certificate acknowledging Purchaser's receipt of the Condominium Information Statement.

**1.05. CHANGES TO CONDOMINIUM INFORMATION STATEMENT.** PURCHASER HEREBY ACKNOWLEDGES AND AGREES THAT SELLER HAS THE RIGHT TO MODIFY, CHANGE, REVISE AND AMEND, WITHOUT PURCHASER'S APPROVAL, THE CONDOMINIUM INFORMATION STATEMENT AND ANY OR ALL OF THE CONDOMINIUM DOCUMENTS (OTHER THAN THIS AGREEMENT). IN THE EVENT SELLER AMENDS, MODIFIES, CHANGES, OR REVISES THE CONDOMINIUM INFORMATION STATEMENT OR THE CONDOMINIUM DOCUMENTS PRIOR TO CLOSING AND PROVIDED SUCH AMENDMENT, CHANGE OR MODIFICATION ADVERSELY AFFECTS THE PURCHASER, THEN A COPY OF THE AMENDED, MODIFIED, CHANGED OR REVISED CONDOMINIUM INFORMATION STATEMENT AND/OR CONDOMINIUM DOCUMENTS, AS APPLICABLE, WILL BE DELIVERED TO PURCHASER BEFORE CLOSING.

**1.06. Association Budget.** The budgets contained in the Condominium Documents have been prepared in accordance with generally accepted accounting principles and are based upon assumptions that, to the best of Seller's knowledge and belief, are reasonable for the initial year of operation of the Association. Purchaser acknowledges that such budgets do not constitute a representation or warranty on the part of Seller. The provisions of the preceding sentence of this *Section 1.06* shall survive the Closing.

**1.07. Declarant's Rights.** Seller hereby gives Purchaser notice that Seller has reserved certain rights as the "Declarant" under the Condominium Documents. Purchaser is advised to review the Condominium Documents and Condominium Information Statement carefully for a description of these rights.

**1.08. Disclosures.** Certain disclosures regarding the Unit and the Regime are set forth in Article 4 of the Declaration and are hereby incorporated herein by reference (collectively, the "**Disclosures**"). Purchaser acknowledges that the Disclosures apply to the Unit and Common Elements and that Purchaser has read the Disclosures.

**1.09. Interstate Land Sales Full Disclosure Act Exemption.** House Resolution 2600, passed as Public Law No. 113-167 on September 26, 2014, and effective on March 25, 2015, exempts the Unit from registration under the Interstate Land Sales Full Disclosure Act, 15 USC §1701 et seq. (the "**Act**"), which Purchaser acknowledges and agrees; accordingly, the Unit is not registered under the Act and Purchaser will not receive a Property Report as contemplated thereunder.

**1.10. Purchaser's Right to Terminate this Agreement Within Six Days of the Effective Date.** BY WRITTEN NOTICE TO SELLER RECEIVED BY SELLER ON OR BEFORE 5:00 P.M. CENTRAL STANDARD TIME ON THE SIXTH DAY FOLLOWING THE EFFECTIVE DATE, PURCHASER SHALL HAVE THE RIGHT TO TERMINATE AND CANCEL THIS AGREEMENT. IF PURCHASER TIMELY EXERCISES ITS RIGHT TO TERMINATE THIS AGREEMENT PURSUANT TO THIS SECTION, THIS AGREEMENT SHALL BE VOID AND OF NO FURTHER FORCE OR EFFECT. THE TITLE COMPANY SHALL PROMPTLY RETURN TO PURCHASER THE EARNEST MONEY.

**II.**  
**CONSIDERATION; EARNEST MONEY; FINANCING**

**2.01. Purchase Price.** The Purchase Price is payable in full in cash or other readily available funds at the Closing. Purchaser may obtain financing for a portion of the Purchase Price, the remainder to be paid by Purchaser in cash.

**2.02. Earnest Money.** In order to secure Purchaser's performance under this Agreement, Purchaser will deposit the Earnest Money with the Title Company in an amount equal to three percent (3.0%) of the Base Price as follows:

- (i) One percent (1.0%) of the Base Price shall be deposited with the Title Company on the Effective Date of this Agreement.
- (ii) The remaining two percent (2.0%) of the Base Price shall be deposited with the Title Company not later than the date that is ninety (90) days prior to the Estimated Completion Date.
- (iii) Notwithstanding the foregoing, in the event the Estimated Completion Date is less than ninety (90) days following the Effective Date of this Agreement, Purchaser shall deposit the full Earnest Money deposit of three percent (3.0%) of the Base Price on the Effective Date of this Agreement.

The Earnest Money will be applied as a credit against the Purchase Price at Closing or otherwise disbursed to the party entitled thereto in accordance with this Agreement. The Title Company shall be authorized to invest the Earnest Money in an interest bearing account; provided, however, that the Title Company shall invest the Earnest Money only in such manner as will allow the Title Company to disburse the Earnest Money upon not more than 24 hours' notice. Purchaser agrees to look solely to the Title Company for payment of such interest and hereby releases Seller from any liability therefor, and Purchaser further agrees that this provision will survive the termination of this Agreement or the Closing. Purchaser will not be entitled to receive any interest accrued on the Earnest Money while deposited with the Title Company, but all interest accrued thereon will be considered Earnest Money. Purchaser understands that no investment of the Earnest Money shall take place until such time as Purchaser completes and returns the Title Company's W-9 forms to permit such investment. The Title Company will have no liability to Purchaser for unearned interest if Purchaser does not complete the W-9 forms and return them to the Title Company promptly. The Title Company is under no obligation to request the execution of the W-9 forms more than once. All Earnest Money deposited with the Title Company will be deposited into a federally insured and interest bearing account. Failure by Purchaser to deposit the Earnest Money or pay to the Seller the Upgrade Payment within the time and manner required by this Agreement shall give Seller the immediate right to send notice to Purchaser that this Agreement is terminated and null and void, and from and after Purchaser's receipt of such notice, neither Seller nor Purchaser shall have any further rights or obligations under this Agreement, except pursuant to the provisions of this Agreement that expressly survive termination.

**2.03. Financing Available from Preferred Lenders.** PURCHASER IS UNDER NO OBLIGATION TO PARTICIPATE IN THE PREFERRED LENDER PROGRAM. PARTICIPATION IN THE PREFERRED LENDER PROGRAM IS AT PURCHASER'S SOLE DISCRETION. One or more preferred lenders (collectively, whether one or more the "Preferred Lender") listed on Exhibit "A", attached hereto are available to serve as the preferred lender for the Unit. PURCHASER IS UNDER NO OBLIGATION TO UTILIZE THE PREFERRED LENDER TO FINANCE PURCHASER'S ACQUISITION OF THE UNIT AND PURCHASER HEREBY RELEASES AND WAIVES ANY AND EVERY CLAIM OR CAUSE OF ACTION AGAINST SELLER, ITS AGENTS, EMPLOYEES, REPRESENTATIVES, DIRECTORS AND OFFICERS, RELATING TO OR ARISING OUT OF PURCHASER'S ELECTION TO USE A PREFERRED LENDER. THIS WAIVER AND RELEASE SHALL SURVIVE THE CLOSING. Notwithstanding any provision in this Agreement to the contrary, Purchaser hereby expressly acknowledges that Purchaser's obligation to consummate the transaction contemplated by this Agreement is not in any way conditioned on Purchaser's ability to obtain financing of the Purchase Price.

**2.04. Purchaser's Agreement to Obtain Pre-Approval Letter.** Purchaser has agreed to contact one of the Preferred Lenders listed on the Preferred Lender Addendum for the purpose of obtaining a pre-approval letter evidencing Purchaser's ability to qualify for a loan to finance Purchaser's acquisition of the Unit (a "**Preapproval Letter**"). In the event Purchaser fails to provide a Preapproval Letter to the Seller on or before the expiration of ten (10) days from the Effective Date, Seller shall be entitled to terminate this Agreement by written notice to the Purchaser. In the event Seller elects to terminate this Agreement as a result of Purchaser's failure to provide the Preapproval Letter as required by this *Section 2.04*, the Title Company shall promptly return to Purchaser the Earnest Money and any accrued interest related thereto, and neither party shall have any further rights or obligations hereunder.

**2.05. Purchaser's Agreement to Provide Proof of Funds.** In the event Purchaser has selected cash as the method of purchase pursuant to the Basic Terms, Purchaser has agreed to provide to Seller reasonable evidence, which may consist of a copy of bank records or confirmation from a financial institution, that Purchaser will have sufficient funds available to acquire the Unit for the Purchase Price at the Closing. In the event Purchaser fails to provide evidence of sufficient funds as required by the previous sentence on or before the expiration of 10 days from the Effective Date, Seller shall be entitled to terminate this Agreement by written notice to the Purchaser. In the event Seller elects to terminate this Agreement as permitted by this *Section 2.05*, the Title Company shall promptly return to Purchaser the Earnest Money and any accrued interest related thereto.

**2.06. Additional Consideration—Agreement Not to Market or Convey.** For the purpose of this *Section 2.06*, the "**Sales Restriction Period**" means a period commencing on the Effective Date and ending on the earlier of: (i) one year after the Closing; and (ii) the date the last of the units created pursuant to the Declaration with the same number of bedrooms as the Unit (e.g., one bedroom, two bedroom or three bedroom residences) is sold by Seller to a purchaser. Unless otherwise approved in writing and in advance by Seller, which approval may be withheld in the sole discretion of Seller, Purchaser shall not offer the Unit for sale or advertise or otherwise market or attempt to market the Unit in any way during the Sales Restriction Period. Purchaser acknowledges that Purchaser's agreement to refrain from marketing the Unit for sale during the Sales Restriction Period is additional and valuable consideration and a material inducement for Seller's agreement to sell and convey the Unit to Purchaser

pursuant to this Agreement. Purchaser acknowledges and agrees that breach of the foregoing covenant by Purchaser during the Sales Restriction Period shall be considered a default by Purchaser under the terms and provisions of this Agreement. The provisions of this *Section 2.06* shall survive the Closing and Purchaser agrees that the breach of the covenant set forth above after the Closing but during the Sales Restriction Period shall entitle Seller to exercise any remedy available at law or in equity against Purchaser.

### III.

#### **SELECTIONS AND UPGRADES; CONSTRUCTION MATTERS; CONDEMNATION**

**3.01. Selections and Upgrades.** The finish selections (the “**Selections**”) and the upgrade options (the “**Upgrades**”) are described in Exhibit “B” attached hereto (the “**Selection and Upgrade Form**”). Purchaser acknowledges that the Unit will be constructed by the Builder and not the Seller. Unless otherwise provided by the Selections and Upgrade Form, the materials used by the Builder to construct the Unit will be determined by the Builder and/or Seller. Neither Seller nor Builder have made any representation or warranty as to the exact square footage of the Unit as constructed. Purchaser acknowledges that the descriptions set forth therein are intended to be illustrative of the type and quality of such Selections and Upgrades, but the actual Selections and Upgrades may vary in instances from such descriptions due to manufacturing and installation variances and availability. Purchaser acknowledges that Builder or Seller may, from time to time, substitute such other equipment, appliances, finishes or materials utilized for the Selections, Upgrades, or in the construction of the Units and the Common Elements, from those specified or contemplated in Exhibit “B” or the plans and specifications for the improvements that will comprise the Unit, Common Elements and the Property (the “**Plans and Specifications**”), or referred to by Seller or any sales agent or in any marketing or other Seller materials, provided that the quality of any substituted equipment, appliances, finishes or materials is substantially equal to or better than that originally indicated in Exhibit “B” or the Plans and Specifications as of the Effective Date, as reasonably determined by Seller. It is understood and agreed that Seller is not installing or building the Selections, Upgrades, the Unit, Common Elements or any improvements within the Property to the precise specifications or designs of the Plans and Specifications, any model residence, marketing display, Seller’s marketing materials or to the specifications of Purchaser. Any model residence, marketing display or Seller’s marketing or other materials are displayed for illustrative purposes only and shall not constitute an agreement or commitment on the part of Builder or Seller to deliver the Selections, Upgrades, Unit, Common Elements or any other improvements within the Property in exact accordance with any such model residence, marketing display, Seller’s marketing or other materials or to the specifications of Purchaser. Consultation with Purchaser with respect to the Selections, Upgrades, Unit, Common Elements or any other improvements within the Property to be built shall not, in any case, be deemed a waiver of Seller’s rights or disclaimers under this *Section 3.01*. None of the items of furnishings shown in any model residence, display boards or renderings are included in this Agreement or the Unit unless Seller specifically agrees in writing to deliver the same as part of the Purchase Price by completion of the Selection and Upgrade Form. The Unit is being sold unfurnished and will contain only the appliances and equipment installed at the time of the inspection of the Unit by Purchaser and Seller.

If applicable, Purchaser will complete the Selection and Upgrade Form by the Selection Date as specified in the Basic Terms of this Agreement. If the Selection and Upgrade Form is incomplete by the

Selection Date, **Seller may make any and all Selections on behalf of Purchaser and no Upgrades shall be incorporated into the Unit.** Purchaser is advised to carefully review the Selection and Upgrade Form to ensure the form is complete by the Selection Date. Seller shall have no obligation to complete the Selection and Upgrade Form on behalf of Purchaser. If Purchaser elects to incorporate Upgrades into the Unit in such event: (i) the additional amount for the Upgrades (the “**Upgrade Payment**”) will be added to the Purchase Price; (ii) **one-hundred percent (100%) of such additional amount shall be due and payable to Seller on the Selection Date;** (iii) to the extent paid by Purchaser in accordance with this Section, the additional amount will be credited against the amount of the Purchase Price payable by Purchaser at the Closing; and (iv) shall not be refundable to Purchaser for any reason except in the event of a Seller default under the terms and provisions of this Agreement or a termination of this Agreement in accordance with *Section 3.05*. If Purchaser chooses to make changes to the standard materials for the Selections or Upgrades and Seller consents thereto, then Seller shall not be held liable for any delays as a result thereof in completing the Unit and any such delay shall be deemed to be an event of Force Majeure.

**3.02. Completion.** Seller will be responsible for obtaining a Temporary or Final Certificate of Occupancy for the Unit prior to Closing. Purchaser acknowledges and accepts that the interior dimensions and area of the Unit as represented or reflected in any marketing or other Seller materials are approximate and that construction-related variances could occur. In addition, the final street address and unit numbering of the Unit could change from that reflected in Seller's marketing and other materials and the Plans and Specification may change. The Purchase Price shall not be subject to any adjustment based upon any such changes, and Seller shall not be liable to Purchaser as a result thereof. Construction of the Unit shall be deemed to have been satisfactorily and fully performed on the date when the Unit is ready for occupancy by Purchaser, as determined by Seller's architect, which date shall not be prior to the date the Unit may be occupied for residential purposes. Purchaser acknowledges that, as of the Closing Date, construction of the Property (other than the Unit) may not be complete

The “**Estimated Completion Date**” set forth above is Seller’s good faith estimate of the Closing Date; however, please refer to *Section 5.01* for the actual Closing Date (as defined in *Section 5.01* below). Purchaser understands that this Estimated Completion Date may change to compensate for any delays in construction and Seller will endeavor to notify Purchaser of any such known delays, if substantial. Neither, this Agreement nor, Closing is contingent upon the Estimated Completion Date and Seller will not be held responsible or liable for any delays in construction.

**3.03. Insulation.** Insulation information is as set forth below:

- (i) **THE EXTERIOR WALLS OF IMPROVED LIVING AREAS SHALL BE INSULATED WITH 1 LAYER OF 3.5 INCH SOUND ATTENUATION BLANKET. THE THROUGH WALL R VALUE SHALL NOT BE LESS THAN 15; IF 5.5 INCH CONSTRUCTED WALL, THE THROUGH WALL R VALUE SHALL NOT BE LESS THAN 20.**
- (ii) **THE PARTY WALLS SHALL BE INSULATED WITH 1 LAYER OF 3.5 INCH SOUND ATTENUATION BLANKET. THE THROUGH WALL R-VALUE SHALL NOT BE LESS THAN 13.**



- (iii) THE CEILINGS IN IMPROVED LIVING AREAS SHALL BE INSULATED WITH NO LESS THAN 13 INCHES OF RIGID POLYISOCYANURATE INSULATION. THE CEILING R-VALUE SHALL NOT BE LESS THAN 38.
- (iv) (R-VALUE MEANS RESISTANCE TO HEAT FLOW; THE HIGHER THE R-VALUE, THE GREATER THE INSULATING POWER. THE LISTED R-VALUES INCLUDE A FILM RESISTANCE OF R-.68 ON INTERIOR SURFACES AND R-.25 ON EXTERIOR SURFACES PER ASHRAE 90.1-2010.)

THE INSULATION INFORMATION WAS FURNISHED TO SELLER BY THE INSTALLER AND/OR MANUFACTURER OF THE INSULATION AND IF THERE IS A CHANGE OF THE INSULATION INFORMATION, SELLER WILL FURNISH TO PURCHASER A WRITTEN STATEMENT OF SUCH INFORMATION.

**3.04. Inspection.** At least ten (10) days prior to Closing, Builder and/or Seller will notify Purchaser of the date and time of the inspection of the Unit (the "**Inspection Date**"). The inspection will occur between 8:00 am and 5:00 pm on a weekday. On the Inspection Date, Purchaser, Builder, and Seller or a representative of Seller will inspect the Unit, complete, and execute an orientation addendum on Seller's prescribed form (the "**Orientation Addendum**"). All items listed on the Orientation Addendum must be agreed upon by Purchaser, Builder and Seller (the "**Agreed Punch List Items**"). Any Agreed Punch List Items which are incomplete at Closing will not constitute a default under the terms and provisions of this Agreement, delay Closing, or entitle Purchaser to withhold any portion of the Purchase Price at the Closing. Purchaser acknowledges that Builder will make reasonable and good faith efforts to complete all Agreed Punch List Items within sixty (60) days after Closing, subject to an extension for Force Majeure. Builder's obligation to complete the Agreed Punch List Items will expressly survive Closing. Purchaser acknowledges that Purchaser's failure to attend the scheduled inspection will constitute Purchaser's acceptance of the condition of the Unit as of the date of the inspection and Seller and Builder shall not be obligated to schedule another inspection prior to Closing.

**3.05. Condemnation and Casualty.** If all or a substantial part of the Property has been taken by or is threatened with condemnation or been damaged or destroyed after the Effective Date of this Agreement but before the Closing, Seller may prior to the Closing: (i) terminate this Agreement pursuant to this *Section 3.05*; or (ii) elect to repair such damage so long as such damage may be repaired in a period not to exceed one hundred and eighty (180) days from the occurrence thereof, including extensions for Force Majeure, as reasonably determined by Seller. Seller shall give Purchaser notice within thirty (30) days following such damage, destruction or taking (or threat of taking) by condemnation, of Seller's election to either terminate or repair such damage and the Closing Date shall be extended to a date designated by Seller written notice from Seller to Purchaser, which notice must be given at least ten (10) days prior to Closing. If Seller does not elect to repair such damage, or if such repairs cannot be completed within said one hundred and eighty (180) day period, including extensions for Force Majeure, or if Seller fails to complete such repairs within such period, then Purchaser may elect to terminate this Agreement by sending written notice of such termination to Seller. In the event of a termination pursuant to this *Section 3.05*, the Earnest Money and Upgrade Payment made by Purchaser to Seller shall

be refunded to Purchaser. Upon the Closing, all risk of loss for damage to the Unit shall be assumed by Purchaser and such assumption of loss shall survive the Closing.

#### IV.

#### TITLE; PLAT AND PLANS

**4.01. Title Commitment.** Purchaser acknowledges that prior to the Effective Date the Title Company delivered a commitment (the "**Title Commitment**") from the Title Company to issue an Owner's Policy of Title Insurance on standard form policy T-1R (the "**Title Policy**"). Purchaser or Purchaser's attorney has reviewed the Title Commitment and Purchaser has, as of the Effective Date, accepted and approved the condition of title (other than Schedule C items), including the Permitted Exceptions. "**Permitted Exceptions**" shall mean: (i) the terms, provisions, and easements set forth in the Declaration and any other restrictive covenants of record affecting the Property; (ii) the real estate taxes for the year in which the Closing occurs (prorated to the Closing Date) and subsequent years; (iii) the existing building and zoning ordinances and platting requirements; (iv) liens created by Purchaser as security for the Purchase Price; (v) any other covenants, restrictions, conditions, reservations, exceptions, easements and other matters shown on Schedule B to the Title Commitment affecting the Property; (vi) the utility easements and other matters shown on the map or plat affecting the Property; (vii) the standard printed exceptions on the Title Policy to be issued by the Title Company; and (viii) any other exception or encumbrance that does not materially affect the use and enjoyment of the Property.

**4.02. Plat and Plans.** Purchaser acknowledges that Seller has provided to Purchaser a copy of the Declaration which includes, among other things, the PROPOSED plat and plans (the "**Plat and Plans**") pertaining to the Unit. Any additional survey of the Unit will be the sole obligation of Purchaser, will be done at Purchaser's sole cost and expense, and will in no event delay Closing. Purchaser acknowledges that the square footage of the Unit may be measured different ways for different purposes, such as for conveyance purposes, tax purposes, appraisal purposes, sales purposes, and for purposes of carpeting and paint. The legal boundaries of the Unit are measured using horizontal (upper and lower) and vertical (parametrical, or side-to-side) boundaries established by the Declaration. The Plat and Plans attached to the Declaration are based on construction plans and may differ from the legal boundaries of the Unit actually constructed by Seller. The legal boundaries of the Unit for purposes of conveyance may be different from the area which may be used for actual living purposes or as calculated for appraisal or any other purpose. For example, portions of the Unit could include areas not otherwise accessible by the Purchaser or apparent from a visual inspection of the Unit, e.g., portions of walls may be included within the legal boundaries of the Unit. Purchaser has, or will have had prior to Closing, the opportunity to inspect the Unit, and upon acquiring the Unit, Purchaser hereby expressly waives any claim or demand against Seller, the Listing Broker, or any third party for any difference, shortage or discrepancy between the actual physical and accessible area of the Unit as constructed and the legal boundaries of the Unit as determined by the Declaration and depicted on the final Plat and Plans.

#### V.

#### CLOSING

**5.01. Closing Date.** The closing of the transaction contemplated by this Agreement is referred to herein as the "**Closing**", and the date on which the closing occurs is referred to as the "**Closing Date**".

Seller will timely notify Purchaser and Title Company to prepare for Closing after the date the Unit may be occupied for residential purposes. The actual time and date of Closing will be determined by the Title Company after it receives closing instructions from Seller. Purchaser understands and agrees this paragraph controls the Closing Date and that Estimated Completion Date set out in *Section 3.02* is only an estimate of completion and any scheduling on Purchaser's behalf contingent upon the Estimated Completion Date, including, but not limited to, moving into the Unit, giving notices, or locking interest rates, shall be at Purchaser's sole risk. Only an authorized agent of the Seller (Sales Agent, Superintendent or Closing Coordinator) may provide an updated Estimated Completion Date in writing to Purchaser's mortgage company for lock-ins at Purchaser's request.

**5.02. Closing Disclaimer.** It is difficult to estimate a Closing Date for the Unit due to numerous factors outside of Seller's and Builder's control. All representations of completion or closing dates are estimates that are subject to change. For that reason, the Closing Date is based on events rather than calendar dates. Neither Seller nor Builder will be liable to Purchaser for expenses or lost opportunities relating to or resulting from delays in completing the Unit or scheduling the Closing Date. **PURCHASER IS ADVISED TO WAIT FOR CONFIRMATION OF CLOSING DATE FROM THE SELLER BEFORE SCHEDULING A MOVE INTO THE UNIT.**

**5.03. Seller's Closing Obligations.** At the Closing, Seller will, at Seller's sole cost and expense:

- (i) deliver to Purchaser a special warranty deed substantially in form and substance as set forth on Exhibit "C" attached hereto (the "**Deed**"), executed and acknowledged by Seller conveying to Purchaser good and indefeasible title in fee simple to the Unit, all free and clear of any and all liens, encumbrances, conditions, easements, assessments, reservations and restrictions, except for the Permitted Exceptions.
- (ii) cause to be delivered to Purchaser, promptly after the Closing in accordance with the usual practice of the Title Company, the Title Policy. The Title Policy shall be issued by the Title Company in the amount of the Purchase Price and shall insure in Purchaser good and indefeasible title in fee simple to the Unit, subject to the Permitted Exceptions. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THE DEED DELIVERED TO PURCHASER AT THE CLOSING, PURCHASER HEREBY RELEASES AND WAIVES ANY AND EVERY CLAIM OR CAUSE OF ACTION AGAINST SELLER, ITS AGENTS, EMPLOYEES, REPRESENTATIVES, DIRECTORS AND OFFICERS, RELATING TO OR ARISING OUT OF TITLE TO THE UNIT (INCLUDING ALL IMPLIED WARRANTIES), AND PURCHASER HEREBY AGREES TO PROCEED SOLELY AND EXCLUSIVELY AGAINST THE TITLE COMPANY IN THE EVENT OF ANY SUCH CLAIM. THIS WAIVER AND RELEASE SHALL SURVIVE THE CLOSING;
- (iii) deliver to Purchaser a copy of the Limited Warranty as referenced in the Condominium Information Statement; and

- (iv) execute and deliver all other documents reasonably required by the Title Company to complete the Closing.

**5.04. Purchaser's Closing Obligations.** At the Closing, Purchaser will, at Purchaser's sole cost and expense:

- (i) pay the Purchase Price in accordance with the terms and provisions of this Agreement in cash, in funds immediately available in Austin, Texas, by wire transfer to an account designated by the Title Company;
- (ii) deliver to Seller a copy of the Receipt of Limited Warranty attached hereto as Exhibit "D" executed by Purchaser;
- (iii) deliver such evidence of Purchaser's authority to act hereunder as Seller and the Title Company may reasonably require for Closing; and
- (iv) execute and deliver all other documents reasonably required by the Title Company to complete the Closing.

**5.05. Closing Costs.** Unless otherwise expressly provided for in this Agreement all of the Closing costs and expenses shall be paid by Purchaser, including all costs of Purchaser's financing, if any, and a Closing document preparation fee payable to Seller equal to \$250.00. Seller shall pay one half of the escrow fee, the cost of preparation of any release of lien (including filing fees for such release), Seller's own attorney's fees, if any, and other costs or expenses directly and expressly incurred by Seller. Additionally, if Purchaser uses a Preferred Lender to finance the acquisition of the Unit or uses cash funds to acquire the Unit, Seller hereby agrees to pay the basic premium for the Title Policy (not including the amendment of the survey exception or any other endorsement to the Title Policy). Otherwise all costs associated with the Title Policy shall be paid by the Purchaser. **PURCHASER IS ADVISED THAT PURCHASER MAY CHOOSE THE TITLE COMPANY THAT WILL ISSUE THE TITLE POLICY IN THE EVENT PURCHASER IS REQUIRED TO PAY THE BASIC PREMIUM FOR THE TITLE POLICY.**

**5.06. Adjustments at Closing.** If, on the Closing Date, the Unit is separately assessed for property taxes and the actual taxes attributable to the Unit have been determined by the Travis County Appraisal District, then the taxes attributable to the Unit will be prorated between Seller and Purchaser as of the Closing Date, and such proration will be final. If, on the Closing Date, the Unit has not been separately assessed for property taxes and/or the actual taxes attributable to the Unit have not yet been determined by the Travis County Appraisal District, Seller may reasonably estimate the amount of such taxes attributable to the Unit, which estimate will be apportioned to the Closing Date with a credit to Seller for the period of time from the Closing Date to the end of the Closing year. Upon receipt of the actual tax bill that includes the Unit, a re-proration and adjustment will be made at the request of either Seller or Purchaser upon presentation of actual tax bills and any payment required as a result of the re-proration shall be made within thirty (30) calendar days following demand therefore. The provisions of this *Section 5.06* will survive the Closing.

**VI.**  
**LIMITED WARRANTY**

**6.01. ASSIGNABLE WARRANTIES.** AT CLOSING, BUILDER WILL ASSIGN TO PURCHASER ALL ASSIGNABLE MANUFACTURER WARRANTIES ON EQUIPMENT AND CONSUMER PRODUCTS INCORPORATED INTO THE IMPROVEMENTS, SUCH AS REFRIGERATORS, RANGES, DISHWASHERS, AND OTHER APPLIANCES OR EQUIPMENT. NEITHER BUILDER NOR SELLER MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, CONCERNING THE EQUIPMENT OR CONSUMER PRODUCTS AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF USE FOR A PARTICULAR PURPOSE, AND ANY OTHER WARRANTIES TO THE FULLEST EXTENT PERMITTED BY STATE OR FEDERAL LAW. PURCHASER UNDERSTANDS THAT THE WARRANTY PERIOD IS DEFINED IN EACH WARRANTY AND SHALL BEGIN TO RUN FROM A DATE WHICH MAY BE A DIFFERENT DATE THAN THE DATE OF CLOSING.

**6.02. Limited Warranty.** At Closing, Builder will deliver to Purchaser an owner's limited warranty (the "Limited Warranty"). Purchaser has received and reviewed a copy of the Limited Warranty prior to the execution of this Agreement. Purchaser's acknowledgement of receipt of the Limited Warranty is attached hereto as Exhibit "D". PURCHASER ACKNOWLEDGES AND AGREES THAT AT CLOSING, PURCHASER WILL BE REQUIRED TO EXECUTE THE LIMITED WARRANTY WHICH INCLUDES A RELEASE OF SELLER AND ITS SHAREHOLDERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FROM ANY CLAIMS PERTAINING TO THE CONSTRUCTION OF ALL OR ANY PORTION OF THE IMPROVEMENTS.

**6.03. Disclaimer of Warranties; "As-Is, Where Is".** Purchaser hereby acknowledges and agrees that: (i) to the extent permitted by law, and (ii) except for Seller's express written representations, warranties and covenants as may be expressly set forth in this Agreement, and the documents delivered to Purchaser at Closing, including but not limited to the warranty of title to be contained in the Deed and the Limited Warranty, the sale of the Unit and Common Elements appurtenant thereto shall be "AS IS", "WHERE IS" without representation or warranty, express or implied and with all faults. Without limiting the foregoing, Seller has not made, does not make, and specifically disclaims any and all representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as to, concerning or with respect to the Unit, Common Elements, the Selections, Upgrades, or any other improvements within the Property, including but not limited to all implied warranties of fitness for a particular purpose, merchantability and habitability, all warranties imposed by statute (to the extent they can be disclaimed) and all other implied or express warranties of any kind or character. Without limiting the generality of the foregoing, Seller hereby disclaims any and all express or implied warranties as to design, construction, view, sound and/or odor transmission, furnishing and equipping of the Unit, Common Elements, the Selections, Upgrades, or any other improvements within the Property, and the existence of molds, mildew, spores, fungi and/or other toxins within the Unit, Common Elements, the Selections, Upgrades, or any other improvements within the Property. Seller has not given and Purchaser has not relied on or bargained for any such warranties. Purchaser further acknowledges that Purchaser has or will have the right to conduct its own independent examination of the Unit, Common Elements, the Selections, Upgrades, or any other

improvements within the Property and is relying on that examination to satisfy itself as to the condition and status of the Unit, Common Elements, the Selections, Upgrades, or any other improvements within the Property. Purchaser has not relied upon any representation of any person on behalf of or purported to be on behalf of Seller.

As to any implied warranty which cannot be disclaimed entirely, all secondary, incidental and consequential damages are specifically excluded and disclaimed (claims for such secondary, incidental and consequential damages being unavailable in the case of implied warranties which are disclaimed entirely above).

Purchaser acknowledges and agrees that Seller does not guarantee, warrant or otherwise assure, and expressly disclaims, any right to a view from the Unit or Common Elements, and/or natural light being available to the Unit.

Further, given the climate and humid conditions in Austin, Texas, molds, mildew, spores, fungi and/or other toxins may exist and/or develop within the Unit and Common Elements. Purchaser is hereby advised that certain molds, mildew, spores, fungi and/or other toxins may be, or if allowed to remain for a sufficient period may become, toxic and potentially pose a health risk. Purchaser shall be deemed to have assumed the risks associated with molds, mildew, spores, fungi and/or other toxins and to have released Seller from any and all liability resulting from same.

This Section 6.03 will survive the termination of this Agreement and the Closing.

## VII.

### REMEDIES; DISPUTE RESOLUTION

**7.01. Seller Default.** In the event Seller fails or refuses to comply with Seller's obligations under this Agreement, then Purchaser must provide Seller with written notice of such default ("**Seller Default Notice**"). The Seller Default Notice must include a description of the default being alleged by Purchaser. Seller will have 7 days from receipt of the Seller Default Notice to cure any default specified therein. If Seller fails, refuses, or is unable to cure the specified default within such 7 day period, Purchaser may terminate this Agreement by written notice to Seller whereupon the Earnest Money and Upgrade Payment (if any) will be immediately returned to Purchaser. Upon termination of this Agreement, neither Seller, Builder nor Purchaser will have any further rights or obligations hereunder. Purchaser's rights under this *Section 7.01* are Purchaser's sole and exclusive remedies in the event Seller fails or refuses to comply with Seller's obligations under this Agreement. If Purchaser elects to terminate this Agreement as Purchaser's sole and exclusive remedy under this Agreement, Seller and Purchaser agree that the damages incurred by Purchaser from a Seller default are difficult to ascertain and that the Earnest Money and Upgrade Payment (if any) represents a fair and reasonable estimate of those damages. The receipt by Purchaser of the Earnest Money and Upgrade Payment is not intended as a penalty. The liquidated damages specified in this *Section 7.01* shall be retained by Purchaser in lieu of all other damages, claims and remedies to which Purchaser may be entitled pursuant to this Agreement. This *Section 7.01* shall survive the termination of this Agreement.

**7.02. Purchaser's Default.** In the event Purchaser fails or refuses to comply with Purchaser's obligations under this Agreement, then Seller must provide Purchaser with written notice of such default

("Purchaser Default Notice"). The Purchaser Default Notice must include a description of the default being alleged by Seller. Purchaser will have 7 days from receipt of the Purchaser Default Notice to cure any default specified therein. If Purchaser fails, refuses, or is unable to cure the specified default within such 7 day period, Seller may: (i) terminate this Agreement by written notice to Purchaser whereupon the Earnest Money will be immediately paid to the Seller; or (ii) enforce specific performance of this Agreement against the Purchaser. Upon termination of this Agreement neither Seller nor Purchaser will have any further rights or obligations hereunder. Seller's rights under this *Section 7.02* are Seller's sole and exclusive remedies in the event Purchaser fails or refuses to comply with Purchaser's obligations under this Agreement. If Seller elects to terminate this Agreement as Seller's sole and exclusive remedy under this Agreement, Seller and Purchaser agree that the damages incurred by Seller from a Purchaser default are difficult to ascertain and that the Earnest Money (and retention of the Upgrade Payment) represents a fair and reasonable estimate of those damages. The receipt by Seller of the Earnest Money (and retention of the Upgrade Payment) is not intended as a penalty. The liquidated damages specified in this *Section 7.02* shall be retained by Seller in lieu of all other damages, claims and remedies to which Seller may be entitled pursuant to this Agreement. This *Section 7.02* shall survive the termination of this Agreement.

**7.03. Release of Earnest Money.** If either Purchaser or Seller becomes entitled to the Earnest Money as a result of a default under the terms and provisions of this Agreement, Purchaser, Seller or the Title Company may send a written release of the Earnest Money to the other parties, and each of the other parties shall execute a counterpart of the release and deliver the executed release of the Earnest Money to the Title Company. If either Purchaser or Seller fails to execute the release of the Earnest Money then the other party may make a written demand to the Title Company for payment of the Earnest Money. If Purchaser or Seller individually makes such written demand for the Earnest Money, the Title Company shall promptly provide a copy of the demand to the non-demanding party. If the Title Company does not receive a written objection to the demand from the non-demanding party within 15 days, the Title Company may disburse the Earnest Money to the party making demand, and the Earnest Money will be reduced by the amount of unpaid expenses incurred on behalf of the party receiving the Earnest Money, and such unpaid expenses shall be paid to the party owed the unpaid expenses. Notwithstanding the foregoing procedures, if Seller becomes entitled to the Earnest Money as a result of a Purchaser default under the terms and provisions of this Agreement, Seller may alternatively provide to the Title Company an affidavit or written certification signed by an authorized representative of the Seller which affidavit or certification states that Purchaser is in default after Seller has provided the Purchaser Default Notice and expiration of the cure period set forth in *Section 7.02*. Upon receipt of the affidavit or written certification described in the previous sentence, the Title Company will immediately release the Earnest Money to the Seller. If the Title Company complies with the provisions of this *Section 7.03*, Purchaser and Seller shall each release the Title Company from all claims related to the disbursement of the Earnest Money hereunder. This *Section 7.03* shall survive the termination of this Agreement.

## **VIII.**

### **MISCELLANEOUS PROVISIONS**

**8.01. Notices.** All notices, demands, requests and other communications required or permitted hereunder shall be in writing and shall be deemed to be delivered when actually received or, if earlier and regardless of whether actually received, two days following deposit in a regularly maintained

receptacle for the United States mail, registered or certified, postage fully prepaid, addressed to the addressee. Notice may additionally be provided by electronic mail transmission so long as a copy of such notice is promptly forwarded by one of the other means described above and the electronic mail notice shall be deemed delivered when actually received. The proper addresses and electronic mail addresses for Seller and Purchaser are as provided in the Basic Terms of this Agreement. Each party to this Agreement shall have the right to change its address hereunder to any other location within the continental United States by the giving of 30-days' notice to the other party in the manner set forth herein.

**8.02. Subordination.** Purchaser agrees that all the rights of Purchaser pursuant to the terms and conditions of this Agreement are and shall be subject and subordinate to the lien of any mortgage now existing or hereafter made to finance the acquisition of the real property described in the Declaration and the cost of construction and other costs during construction of the improvements thereon and to any and all advances made thereon and to any and all sums which may become a lien pursuant to the terms of such mortgage or any other agreement relating to the acquisition of such real property and construction of such improvements, including cost of services provided incidental to such construction. The subordination of Purchaser's rights as herein provided shall be self-operating and no further instrument of subordination shall be required. In confirmation of such subordination, Purchaser agrees to promptly execute and deliver any instrument that the holder of any mortgage as above described or its successors in interest may require to evidence such subordination, and Seller agrees that any liens referenced in this *Section 8.02* shall be released with respect to the Unit at or prior to the Closing. If any holder of any mortgage, its designee or another lender (collectively, "**New Owner**") forecloses on, accepts a deed-in-lieu of foreclosure with respect to or otherwise becomes the owner of the Unit, Purchaser agrees to recognize any New Owner that assumes this Agreement in its entirety as "Seller" hereunder, comply with, observe and perform all of Purchaser's obligations hereunder and accept conveyance of the Unit by New Owner pursuant hereto. This *Section 8.02* shall survive the Closing.

**8.03. Governing Law.** THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS (WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW) APPLICABLE TO A CONTRACT EXECUTED AND PERFORMABLE IN SUCH STATE. Venue for any action hereunder shall be in Travis County, Texas.

**8.04. Time is of the Essence.** With respect to all provisions of this Agreement, time is of the essence. Notwithstanding the foregoing, if the last day of any time period stated herein shall fall on a Saturday, Sunday or a bank holiday, then the duration of such time period shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or a bank holiday.

**8.05. Further Assurances and Corrections.** From time to time at the request of Seller, Purchaser will promptly correct any defect, error or omission that may be discovered in the contents of this Agreement or in the execution or acknowledgement thereof.

**8.06. Assignment.** Purchaser shall not have the right to assign, transfer, pledge, mortgage or encumber this Agreement or its rights contained in this Agreement without Seller's prior written consent and any purported attempt to do so shall constitute a default by Purchaser under the terms and provisions of this Agreement. Without the consent of or notice to Purchaser, Seller shall have the right to



assign, transfer, pledge, mortgage or encumber this Agreement or its rights and obligations contained in this Agreement and, if the assignee assumes the obligations of Seller under this Agreement, Seller shall be automatically released and shall have no further obligations under this Agreement or any documents delivered pursuant to this Agreement. This provision shall survive the termination of this Agreement and the Closing.

**8.07. Entire Agreement.** THIS AGREEMENT (INCLUDING ALL EXHIBITS AND ADDENDA ATTACHED HERETO AND/OR EXECUTED BY THE PARTIES CONTEMPORANEOUSLY HEREWITH) EMBODIES AND CONSTITUTES THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED HEREIN AND ALL PRIOR OR CONTEMPORANEOUS AGREEMENTS, UNDERSTANDINGS, REPRESENTATIONS AND STATEMENTS (ORAL OR WRITTEN) ARE MERGED INTO THIS AGREEMENT. NEITHER THIS AGREEMENT NOR ANY PROVISION HEREOF MAY BE WAIVED, MODIFIED, AMENDED, DISCHARGED OR TERMINATED EXCEPT BY AN INSTRUMENT IN WRITING SIGNED BY THE PARTY AGAINST WHOM THE ENFORCEMENT OF SUCH WAIVER, MODIFICATION, AMENDMENT, DISCHARGE OR TERMINATION IS SOUGHT AND THEN ONLY TO THE EXTENT SET FORTH IN SUCH INSTRUMENT. NO BROKER, SALESMAN, EMPLOYEE OR AGENT OF SELLER HAS AUTHORITY TO MODIFY THE TERMS HEREIN NOR ANY AUTHORITY WHATSOEVER TO MAKE ANY REFERENCE, REPRESENTATION OR AGREEMENT NOT CONTAINED IN THIS AGREEMENT AND NO REFERENCE, REPRESENTATION OR AGREEMENT NOT CONTAINED HEREIN SHALL BE BINDING UPON SELLER OR IN ANY WAY AFFECT THE VALIDITY OF THIS AGREEMENT OR FORM ANY PART HEREOF. PURCHASER ACKNOWLEDGES THAT NO REPRESENTATIONS HAVE BEEN MADE BY SELLER, ANY BROKER, ITS AGENTS OR EMPLOYEES OR IN ANY MARKETING OR OTHER MATERIALS IN ORDER TO INDUCE PURCHASER TO ENTER INTO THIS AGREEMENT, OTHER THAN AS EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PURCHASER ACKNOWLEDGES THAT NEITHER SELLER, ANY BROKER, NOR ITS AGENTS OR EMPLOYEES HAVE (I) MADE ANY REPRESENTATION OR STATEMENT TO PURCHASER OF THE INVESTMENT POTENTIAL OR RESALE AT ANY FUTURE DATE, AT A PROFIT OR OTHERWISE, OF THE UNIT; (II) RENDERED ANY ADVICE OR EXPRESSED ANY OPINIONS TO PURCHASER REGARDING ANY TAX CONSEQUENCES OF OWNERSHIP OF THE UNIT OR APPURTENANT COMMON ELEMENTS OR (III) MADE ANY STATEMENT OR REPRESENTATION NOT SET FORTH IN THIS AGREEMENT, INCLUDING ANY STATEMENT OR REPRESENTATION AS TO THE VIEWS FROM THE UNIT NOT BEING IMPACTED IN THE FUTURE. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS READ AND UNDERSTANDS EACH AND EVERY PART OF THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 8.07 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND THE CLOSING.

**8.08. Counterpart Execution.** This Agreement may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument. An electronic signature of Purchaser or Seller shall be the same as an original signature for all purposes hereunder.

**8.09. Headings; Construction.** The headings that have been used throughout this Agreement have been inserted for convenience or reference only and shall not be used for the purpose of interpreting this Agreement. The words "herein", "hereof", "hereunder" and other similar compounds of the word

“here” when used in this Agreement shall refer to this entire Agreement and not to any particular provision or section. The word “including” shall be deemed to be followed by the words “but not limited to.”

**8.10. Invalid Provisions.** If any one or more of the provisions of this Agreement or the applicability of any such provision to a specific situation shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable and the validity and enforceability of all other provisions of this Agreement and all other applications of any such provision shall not be affected thereby.

**8.11. Purchaser's Access to the Unit.** Purchaser agrees not to enter the Unit during construction without the express written consent of Builder unless accompanied by an employee or designated representative of Builder. Purchaser agrees that any entry onto the Unit is at Purchaser's own risk. PURCHASER HEREBY WAIVES ANY AND ALL CLAIMS AGAINST SELLER AND BUILDER FOR INJURY OR DAMAGE TO PERSON OR PROPERTY ARISING FROM ANY SUCH ENTRY BY PURCHASER. PURCHASER SHALL DEFEND, INDEMNIFY AND HOLD SELLER AND BUILDER HARMLESS AGAINST ANY INJURY, LOSS, DAMAGE OR EXPENSE TO PERSONS OR PROPERTY ARISING FROM ANY ENTRY ON TO THE UNIT, WHETHER BY PURCHASER, ANY OTHER PERSON ACCOMPANYING PURCHASER, OR ANY PERSON ENTERING THE UNIT AT PURCHASER'S DIRECTION, PRIOR TO CLOSING, **IN ALL CASES REGARDLESS OF THE CAUSE OR OF ANY CONCURRENT OR CONTRIBUTING FAULT OR NEGLIGENCE OF BUILDER OR SELLER OR ANY BREACH OR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THE CONTRACT BY BUILDER OR SELLER.** THIS **SECTION 8.11** WILL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.

**8.12. Garages.** Trucks, sports utility vehicles, vans, minivans, large sedans, or any other vehicles other than compact passenger vehicles may not fit into a garage. All representations of the size of a garage or the number of vehicles that may fit into a garage are estimates only. Purchaser has, or will have had prior to Closing, the opportunity to inspect the garage to determine the amount of vehicles that Purchaser may actually fit within the garage. Seller does not make any representation or warranties as to how many vehicles will actually fit into a garage.

**8.13. Concrete Floors.** This notice is given because some Owners are inexperienced with concrete flooring. Minor cracks in poured concrete, including flooring, foundations, sidewalks, driveways and patios, are inevitable as a result of the natural movement of soil (expansion and contraction), shrinkage during the curing of the concrete, and movement of a Building. Cosmetic or other non-structural cracks in concrete flooring may not be covered by the Builder's Limited Warranty. In deciding whether, when, and how to fill cracks in exposed concrete floors, an Owner is hereby made aware that the color and texture of the fill material may not match the rest of the concrete floor. On some exposed concrete floors, fill materials make minor cracks more noticeable than if the cracks had been left in their natural state. In addition, each Owner is hereby made aware that natural variations in the color and texture of concrete flooring exists and may vary significantly from other Units. Concrete floors may also be subject to staining. Each Owner understands and acknowledges that it is responsible for care, protection and maintenance of its concrete floors.

**8.14. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their respective heirs, personal representatives, successors and permitted assigns. Except as expressly provided herein, nothing in this Agreement is intended to confer on any person other than the parties hereto and their respective heirs, personal representatives, successors and permitted assigns, any rights or remedies under or by reason of this Agreement.

**8.15. Further Acts.** In addition to the acts recited in this Agreement to be performed by Seller and Purchaser, Seller and Purchaser agree to perform or cause to be performed at the Closing or after the Closing any and all such further acts as may be reasonably necessary to consummate the transactions contemplated hereby.

**8.16. Exhibits.** All Exhibits attached hereto are made a part hereof for all purposes the same as if set forth herein verbatim, it being expressly understood that if any Exhibit attached hereto which is to be executed and delivered at the Closing contains blanks, the same shall be completed in accordance with the terms and provisions contained herein and as contemplated herein prior to or at the time of execution and delivery thereof.

**8.17. Attorney's Fees.** If it shall be necessary for either Purchaser or Seller to employ an attorney to enforce its rights pursuant to this Agreement, each party shall be responsible their own attorney's fees and costs. The provisions of this *Section 8.17* shall survive the termination of this Agreement and the Closing.

**8.18. Credit Report.** PURCHASER AUTHORIZES SELLER TO ORDER, OBTAIN AND REVIEW A CREDIT REPORT RELATING TO PURCHASER.

**8.19. Control of Purchaser.** [THIS SECTION IS NOT APPLICABLE TO ANY PURCHASER WHO IS AN INDIVIDUAL (i.e., a natural person)].

As of the date hereof, \_\_\_\_\_ (the "**Beneficial Owner**") is in Majority Control (as defined below) of Purchaser. Purchaser shall not permit any transfer of a direct or indirect interest in Purchaser to any person if such transfer would result in the Beneficial Owner no longer having Majority Control of Purchaser without first obtaining the prior written approval of Seller. Any attempted transfer of a direct or indirect interest in Purchaser that would result in the Beneficial Owner no longer having Majority Control of Purchaser without first obtaining the prior written approval of Seller shall automatically terminate this Agreement. If this Agreement is terminated pursuant to this *Section 8.19*, then promptly after Seller has actual knowledge of such termination, Seller shall promptly notify the Title Company, and the Title Company shall release the Earnest Money to Seller and Seller shall retain the Upgrade Payment, if any. The provisions of this *Section 8.19* shall survive Closing, but such survival shall terminate upon the expiration of the Sales Restriction Period.

For purposes of this Agreement, the following terms shall have the following meanings:

"Control" or any derivation thereof, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership of voting securities, by Agreement, or otherwise.

"Majority Control" means with respect to a particular corporation, partnership, limited liability company or other entity, the possession and ownership by the Beneficial Owner of: (i) Control; and (ii) more than 50% of the voting and equity interests in such entity.

**8.20. Special Provisions Regarding National Security.** Purchaser hereby represents and warrants to Seller that neither Purchaser, nor any of its beneficial owners or affiliated entities is a "Prohibited Person" (as hereinafter defined) with whom a "U.S. Person" (as hereinafter defined) is prohibited from transacting business of the type contemplated by this Agreement, whether such prohibition arises under U.S. law, regulation, executive orders or the "Lists" (as hereinafter defined). Purchaser further represents and warrants to Seller that neither Purchaser, nor any of its beneficial owners or affiliated entities (i) is under investigation by any governmental authority for, or has been charged with, or convicted of, money laundering, drug trafficking, terrorist related activities, any crimes which in the U.S. would be predicate crimes to money laundering, or any violation of any "Anti-Money Laundering Laws" (as hereinafter defined); (ii) has been assessed civil or criminal penalties under any Anti-Money Laundering Laws; or (iii) has had any of its funds seized or forfeited in any action under any Anti-Money Laundering Laws. Purchaser further represents and warrants to Seller that Purchaser is in compliance with any and all applicable provisions of the "Patriot Act" (as hereinafter defined). Purchaser represents and warrants that it has taken such measures as are required by law to ensure that the funds used to pay the Purchase Price and the Earnest Money are derived from permissible sources and transactions that do not violate U.S. law and, to the extent such funds originate outside the U.S., do not violate the laws of the jurisdiction in which they originated. If Purchaser obtains knowledge that Purchaser, or any of its beneficial owners or affiliated entities, or the employees of any such parties, becomes listed on the Lists or is indicted, arraigned, or custodially detained on charges involving Anti-Money Laundering Laws, then Purchaser shall immediately notify the other party upon receipt of knowledge of such events.

**"Prohibited Person"** means an entity, organization or individual that has been designated by U.S. law, executive order or sanction regulations of OFAC as an entity, organization or individual with whom U.S. Persons may not transact business or must limit their interactions to those approved by OFAC. A **"U.S. Person"** is a citizen of the United States of America, an entity organized under the laws of the United States of America, its territories or any of the several states, or any entity having its principal place of business within the United States of America or any of its territories. **"List"** means any list published by OFAC (including those executive orders and lists published by OFAC with respect to Prohibited Persons), including the Specially Designated Nationals and Blocked Persons list. **"OFAC"** is the Office of Foreign Assets Control, U.S. Department of the Treasury. **"Anti-Money Laundering Laws"** shall mean laws, regulations and sanctions, state and federal, criminal and civil, that (a) limit the use of and/or seek the forfeiture of proceeds from illegal transactions; (b) limit commercial transactions with designated countries or individuals believed to be terrorists, narcotics dealers or otherwise engaged in activities contrary to the interests of the United States; or (c) are designed to disrupt the flow of funds to terrorist organizations. Such laws, regulations and sanctions shall be deemed to include the USA PATRIOT Act of 2001, Pub. L. No. 107-56 (the **"Patriot Act"**), the Bank Secrecy Act, 31 U.S.C. Section 5311 et. seq., the Trading with the Enemy Act, 50 U.S.C. App. Section 1 et. seq., and the sanction regulations promulgated by OFAC pursuant thereto, as well as laws relating to prevention and detection of money laundering in 18 U.S.C. Sections 1956 and 1957.

**8.21. Utility Related Matters.** Purchaser shall be responsible, at Purchaser's sole cost and expense, for all utility deposits and account transfer fees incurred in connection with the delivery of utility services to the Unit. In addition, Purchaser will also be responsible, at Purchaser's sole cost and expense, for all inspection fees and other governmental fees or charges of any kind or nature associated with Purchaser's ownership of the Unit after Closing. Purchaser understands and hereby acknowledges that Seller will retain all reimbursements from any utility service provider to the extent such reimbursements relate to improvements within the Property constructed by Seller

**8.22. Broker Disclosure.** Seller hereby discloses to Purchaser that Compass RE Texas, LLC is a licensed real estate broker in the State of Texas.

**8.23. RELEASE & INDEMNITY FOR CONSTRUCTION HAZARDS.** Purchaser acknowledges that potential safety and health hazards may be present during construction on the Property and agrees that Purchaser's entry on to the construction site is at Purchaser's own risk. PURCHASER RELEASES, INDEMNIFIES, AND HOLDS SELLER HARMLESS FROM ALL CLAIMS, DEMANDS, OR CAUSES OF ACTION ARISING IN FAVOR OF PURCHASER OR ANY THIRD PARTY AFFILIATED WITH PURCHASER ON ACCOUNT OF BODILY INJURY, DEATH, OR DAMAGE TO PROPERTY IN ANY WAY OCCURRING OR INCIDENT TO THE CONSTRUCTION CONDITION OF THE PROPERTY. PURCHASER GRANTS THIS RELEASE AND INDEMNITY TO SELLER REGARDLESS OF WHETHER SELLER OR ITS AGENTS OR EMPLOYEES ARE PARTLY OR SOLELY NEGLIGENT. This provision survives Closing or termination of this Agreement.

**EXHIBIT A**

**PREFERRED LENDER ADDENDUM**

IN ACCORDANCE WITH *SECTION 2.04* OF THIS AGREEMENT, PURCHASER SHALL PROVIDE SELLER WITH A PREAPPROVAL LETTER FROM ONE OF THE PREFERRED LENDERS LISTED BELOW TO EVIDENCE THE PREFERRED LENDER'S PRE-APPROVAL OF PURCHASER'S APPLICATION TO OBTAIN THE LOAN AS MORE FULLY SET FORTH IN *SECTION 2.04* OF THIS AGREEMENT:

Prime Lending  
Attn: Zander Blunt  
1717 West 6<sup>th</sup> Street  
No. 340  
Austin, Texas 78703  
Ph: 512-381-4642  
Email: [zblunt@primelending.com](mailto:zblunt@primelending.com)

University Federal Credit Union  
Attn: David Medrano  
8303 North Mopac Expressway  
Ste. A105  
Austin, Texas 7859  
Ph: 512-997-4630  
Email: [damedrano@ufcu.org](mailto:damedrano@ufcu.org)

Capstar Lending, LLC  
Attn: Cody Daniel  
6836 Austin Center Blvd.  
No. 110  
Austin, Texas 78731  
Ph: 512-750-2999  
Email: [cody@danielmortgagegroup.com](mailto:cody@danielmortgagegroup.com)

**EXHIBIT B**

**SELECTION AND UPGRADE FORM**

Selection and Upgrade Form

All terms used with capital letters and not defined herein shall have the meaning specified in the Agreement.

Purchaser shall complete the Selections and Upgrade Form by the Selection Date. Purchaser acknowledges and agrees that Seller will rely on Purchaser's selections for ordering the Selections and Upgrades so selected as long as such Selections and Upgrades are selected by the Selection Date. Accordingly, Purchaser's selections are final and may not be modified by Purchaser. If the Selections and Upgrade Form is incomplete by the Selection Date, Seller may make any and all Selections on behalf of Purchase and no Upgrades shall be incorporated into the Unit.

[TO BE PROVIDED]

**EXHIBIT C**

**SIGNED UPON CLOSING**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER**

**Special Warranty Deed**

STATE OF TEXAS                   §  
   §       KNOW ALL MEN BY THESE PRESENTS THAT:  
COUNTY OF TRAVIS           §

THAT, 3700 Rooster, Ltd., a Texas limited partnership ("Grantor"), the owner of Unit \_\_\_\_ of Clawson Ridge Condominiums, a condominium regime (the "Residence"), created under and pursuant to that certain Amended and Restated Declaration of Condominium Regime for Clawson Ridge Condominiums, a Condominium Regime recorded as Document No. 2017129504 in the Official Public Records of Travis County, Texas, for and in consideration of good and valuable consideration paid by \_\_\_\_\_, a \_\_\_\_\_ (whether one or more, "Grantee"), the receipt and sufficiency of which are hereby acknowledged and confessed, subject to the exceptions, liens, encumbrances, terms and provisions hereinafter set forth and described, has GRANTED, BARGAINED, SOLD and CONVEYED and by these presents does hereby GRANT, BARGAIN, SELL and CONVEY unto Grantee the property, situated in Travis County, Texas, and being described in Exhibit "A" attached hereto and incorporated herein by reference for all purposes, together with an undivided interest, appurtenant to the Residence, in and to the Common Elements (as defined on Exhibit "A" attached hereto).

TOGETHER WITH, all and singular, the rights, benefits, privileges, easements, tenements, hereditaments, appurtenances and interests thereon or in anywise appertaining thereto and with all improvements located thereon (said land, rights, benefits, privileges, easements, tenements, hereditaments, appurtenances, improvements and interests being hereinafter referred to as the "Subject Property").

This conveyance is made subject and subordinate to the encumbrances and exceptions ("Permitted Exceptions") described in Exhibit "A-1", attached hereto and incorporated herein by reference for all purposes, but only to the extent they affect or relate to the Subject Property and without limitation or expansion of the scope of the special warranty herein contained.

TO HAVE AND TO HOLD the Subject Property, subject to the Permitted Exceptions as aforesaid, unto Grantee and Grantee's heirs, executors, administrators, personal representatives, successors and assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs, executors, administrators, personal representatives, successors and assigns to WARRANT and FOREVER DEFEND, all and singular, the Subject Property, subject to the Permitted Exceptions, unto Grantee and Grantee's heirs,



executors, administrators, personal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but not otherwise.

Grantee, by its acceptance hereof, does hereby assume and agree to pay any and all ad valorem taxes and special assessments pertaining to the Subject Property for calendar year \_\_\_\_ and all subsequent years; but Grantor assumes and agrees to pay any and all ad valorem taxes and special assessments pertaining to the Subject Property for the calendar year \_\_\_\_\_, there having been a proper proration of ad valorem taxes for the current calendar year of \_\_\_\_\_ between Grantor and Grantee.

EXCEPT AS SPECIFICALLY PROVIDED IN THIS DEED AND THE LIMITED WARRANTY PROVIDED IN CONNECTION HERewith, GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THE SUBJECT PROPERTY. BY ACCEPTANCE OF THIS DEED, GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE IS ACQUIRING THE SUBJECT PROPERTY "AS IS" AND "WHERE IS," AND THAT, TO THE EXTENT ALLOWED BY APPLICABLE LAW, GRANTOR HAS DISCLAIMED ANY AND ALL OTHER WARRANTIES, BOTH EXPRESS AND IMPLIED, SPECIFICALLY INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, HABITABILITY, AND FITNESS FOR A PARTICULAR USE OR PURPOSE.

EXECUTED as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**3700 ROOSTER, LTD.,**  
a Texas limited partnership

By: 3700 ROOSTER GP LLC,  
a Texas limited liability company,  
its General Partner

By: \_\_\_\_\_  
Name: Paul Schultz  
Title: President

THE STATE OF TEXAS       §  
  §  
COUNTY OF TRAVIS       §

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Paul Schultz, President of 3700 Rooster GP LLC, a Texas limited liability company, General Partner of 3700 Rooster, Ltd., a Texas limited partnership, on behalf of said company and partnership.

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

GRANTEE'S ADDRESS FOR TAX NOTICES:

\_\_\_\_\_  
\_\_\_\_\_

Unit \_\_, \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT "A" TO SPECIAL WARRANTY DEED**

**Property Description**

The Subject Property consists of Unit \_\_\_\_\_, of Clawson Ridge Condominiums, a Condominium Regime in Travis County, Texas, created pursuant to that certain Amended and Restated Declaration of Condominium Regime for the Clawson Ridge Condominiums, a Condominium Regime recorded as Document No. 2017129504, of the Official Public Records of Travis County, Texas, as the same may be amended (collectively, the "Declaration"), together with an undivided interest, appurtenant to the Residence, in and to the Common Elements (as defined in the Declaration) in the percentage attributable to such Unit in the Declaration.

**EXHIBIT "A-1" TO SPECIAL WARRANTY DEED**

Permitted Exceptions

**EXHIBIT D**

Unit: \_\_\_\_\_

**PURCHASER'S AFFIRMATION AND RECEIPT**  
**OF BUILDER'S LIMITED WARRANTY**

**I, THE UNDERSIGNED PURCHASER, HEREBY ACKNOWLEDGE THAT ON THE  
DATE SHOWN BELOW I RECEIVED THE BUILDER'S LIMITED WARRANTY.**

Additionally, by signing below, the above-named Purchaser(s) certify(ies) that the following statements are true:

1. I/We (1) received the Builder's Limited Warranty from the Seller or Builder before I signed the purchase contract and/or (2) signed a purchase contract that contained an underlined or bold-print provision acknowledging my receipt of the Builder's Limited Warranty and recommending that I/we read the Builder's Limited Warranty before executing the purchase contract and/or (3) have received the Builder's Limited Warranty on the date indicated below.

2. I/we received the Builder's Limited Warranty in (check one):

\_\_\_\_\_ In electronic form  
\_\_\_\_\_ In paper form

**Purchaser 1:**

Date I received the Builder's Limited Warranty: \_\_\_\_\_, 20\_\_\_\_

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date signed: \_\_\_\_\_

**Purchaser 2:**

Date I received the Builder's Limited Warranty: \_\_\_\_\_, 20\_\_\_\_

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date signed: \_\_\_\_\_