

# SPRINGDALE CREEK CONDOMINIUMS

## RECEIPT OF CONDOMINIUM INFORMATION STATEMENT

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

**BUYER:**

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

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

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

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

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

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

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

**SPRINGDALE CREEK CONDOMINIUMS**  
**AGREEMENT OF SALE AND PURCHASE: BASIC TERMS**

<b>Seller:</b>	URBAN INTOWNHOMES, LTD., a Texas limited partnership 1520 Oliver Street Houston, Texas 77007 Ph: (713) 961-3877 Fax: (713) 961-4270
<b>Buyer 1:</b>	_____ _____ Ph: _____ Fax: _____ Cell: _____ email address: _____
<b>Buyer 2:</b>	_____ _____ Ph: _____ Fax: _____ Cell: _____ email address: _____
<b>Unit:</b>	Unit ____ in Springdale Creek Condominiums
<b>Title Company:</b>	Kirby Title LLC 1520 Oliver Street Houston, Texas 77007 Attn.: _____ Ph: (713) 667-2323 email address: _____
<b>Earnest Money:</b>	\$100.00, due and payable on the Effective Date (See <i>Section 2.03</i> )
<b><u>PURCHASE PRICE:</u></b>	<b>PURCHASE PRICE:</b> \$ _____
<b>Upgrade Payment</b>	Upgrade Payment:     \$ _____ , due and payable on the Effective Date <b>NON-REFUNDABLE</b> (See <i>Section 2.02</i> )
<b>Site Selection Premium</b>	Site Selection Premium:     \$ _____ , due and payable on the Effective Date (See <i>Section 2.04</i> )
<b>Method of Purchase (select one):</b>	<input type="checkbox"/> Cash <input type="checkbox"/> Financing (See <i>Section 2.05</i> )
<b>Closing Date:</b>	The Closing Date shall occur within seven (7) days after Seller notifies Buyer of the issuance by the City of Austin of a Certificate of Occupancy for the Unit (See <i>Section 5.01</i> )

<b>Effective Date:</b>	_____ <i>(To be filled in with date last party signs)</i>
<b>Unit Classification:</b>	<input type="checkbox"/> owner occupied <input type="checkbox"/> investment

# **SPRINGDALE CREEK CONDOMINIUMS**

## **AGREEMENT OF SALE AND PURCHASE**

THIS AGREEMENT OF SALE AND PURCHASE (this "**Agreement**") is entered into by and between **URBAN INTOWNHOMES, LTD.**, a Texas limited partnership ("**Seller**"), and the "**Buyer**" identified on the Basic Terms to this Agreement, and is as follows:

### **I.**

#### **SALE AND PURCHASE**

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

**1.02. Common Elements.** 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.

**1.03. Condominium Documents.** The Unit is located in Springdale Creek Condominiums (the "**Regime**"), a condominium project located in Travis County, Texas, established by the Declaration of Condominium Regime for Springdale Creek Condominiums, recorded as Document No. 2016119274 in the Official Public Records of Travis County, Texas (the "**Declaration**"). The Regime is established upon that certain tract or parcel of land located in Travis County, Texas, said tract being more particularly described in the Declaration, which description is incorporated herein by reference as if more fully described herein (the "**Property**"). Capitalized terms used but not defined in this Agreement have the meanings ascribed to such terms in the Declaration.

**1.04. Condominium Information Statement.** **BUYER ACKNOWLEDGES THAT SELLER HAS PROVIDED TO BUYER, PRIOR TO BUYER'S EXECUTION OF THIS AGREEMENT, A COPY OF THE CONDOMINIUM INFORMATION STATEMENT FOR SPRINGDALE CREEK CONDOMINIUMS, WHICH INCLUDES: (I) THE DECLARATION; (II) THE CERTIFICATE OF FORMATION FOR SPRINGDALE CREEK CONDOMINIUM COMMUNITY, INC., A TEXAS NON-PROFIT CORPORATION (THE "ASSOCIATION"); (III) THE COMMUNITY MANUAL FOR THE ASSOCIATION (WHICH INCLUDES THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION); (IV) THE PROJECTED BUDGET OF THE ASSOCIATION; AND (V) 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 (V) ABOVE ARE REFERRED TO HEREIN AS THE "CONDOMINIUM DOCUMENTS").**

**BUYER ACKNOWLEDGES SELLER'S RECOMMENDATION THAT BUYER READ THE CONDOMINIUM INFORMATION STATEMENT BEFORE SIGNING THIS AGREEMENT.** Prior to execution of this Agreement, Buyer has executed a certificate

acknowledging Buyer's receipt of the Condominium Information Statement. At Closing, Seller may again require Buyer to sign a certificate acknowledging Buyer's receipt of the Condominium Information Statement.

**1.05. CHANGES TO CONDOMINIUM DOCUMENTS.** BUYER HEREBY ACKNOWLEDGES AND AGREES THAT SELLER HAS THE RIGHT TO MODIFY, CHANGE, REVISE AND AMEND, WITHOUT BUYER'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 BUYER, THEN A COPY OF THE AMENDED, MODIFIED, CHANGED OR REVISED CONDOMINIUM INFORMATION STATEMENT AND/OR CONDOMINIUM DOCUMENTS, AS APPLICABLE, WILL BE DELIVERED TO BUYER BEFORE CLOSING.

## II.

### **PURCHASE PRICE; EARNEST MONEY; FINANCING**

**2.01. Purchase Price.** The Purchase Price, less any Site Selection Premium previously paid to Seller, is payable in full in cash or other readily available funds at the Closing. Buyer may obtain financing for a portion of the Purchase Price, the remainder to be paid by Buyer in cash.

**2.02. Upgrades.** Seller may provide Buyer with a list of available upgrade finish items and options ("**Upgrades**"). If Seller provides Upgrades, and Buyer desires any Upgrades, Buyer and Seller shall execute an Upgrade Addendum, in the form attached hereto as Exhibit "D", which will become a part of this Agreement, which addendum identifies the Upgrades and all price associated with the Upgrades selected by the Buyer (the "**Upgrade Payment**"). The Upgrade Addendum will only be effective and deemed a part of this Agreement if the Upgrade Payment is paid in full by Buyer to Seller upon the execution of this Agreement. Payments made to Seller for Upgrades are nonrefundable and do not constitute Earnest Money. **IF BUYER TERMINATES THE AGREEMENT OR DEFAULTS UNDER THE AGREEMENT, BUYER WILL NOT BE ENTITLED TO ANY REFUND OF ANY PORTION OF THE UPGRADE PAYMENT PREVIOUSLY REMITTED TO SELLER.**

**2.03 Earnest Money.** To secure Buyer's performance under this Agreement, Buyer has deposited the Earnest Money, in cash or other good and readily available funds, with the Title Company. The Earnest Money need not be deposited into an interest bearing account. If the Earnest Money is deposited into an interest bearing account, Buyer 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. The Earnest Money will be held by the Title Company and released or applied in accordance with the terms and provisions of this Agreement. Failure by Buyer to deposit the Earnest Money within the time and manner required by this Agreement shall give Seller the immediate right to send notice to Buyer that this

Agreement is terminated and null and void, and from and after Buyer's receipt of such notice, neither Seller nor Buyer shall have any further rights or obligations under this Agreement, except pursuant to the provisions of this Agreement that expressly survive termination.

**2.04. Site Selection Premium.** Certain Units will be in a location which is subject to a location premium. To secure a Unit subject to a location premium, Buyer must deposit the Site Selection Premium set forth on Exhibit "C", in cash or other good and readily available funds, with Seller. The Site Selection Premium need not be deposited in an interest bearing account. The Site Selection Premium shall be credited towards the Purchase Price at Closing. The Site Selection Premium does not constitute Earnest Money. **IF BUYER TERMINATES THE AGREEMENT OR DEFAULTS UNDER THE AGREEMENT, BUYER WILL NOT BE ENTITLED TO ANY REFUND OF ANY PORTION OF THE SITE SELECTION PREMIUM PREVIOUSLY REMITTED TO SELLER.**

**2.05. Financing.** If Buyer intends to finance any portion of the Purchase Price, then within three (3) days after the Effective Date, Buyer shall apply for such financing. If Buyer is unable to obtain financing approval within ten (10) days after the Effective Date (the "**Financing Period**"), then Seller may terminate this Agreement by providing written notice of termination to Buyer, in which case the Earnest Money shall be returned to Buyer, and Seller and Buyer will have no further rights or obligations under this Agreement except for those rights and obligations that expressly survive the termination of this Agreement. Seller will not commit to a Closing Date for the purpose of locking a loan rate. Buyer assumes full responsibility for the cost of a loan lock or extension fee if a lock expires. Buyer should satisfy himself/herself that the price and condition of the Unit are acceptable. Buyer shall be responsible for payment of the Purchase Price without regard to the appraised value of the Unit.

**2.06. Pre-Approval by \_\_\_\_\_.** [CLIENT TO CONFIRM] On or before three (3) days after the Effective Date of this Agreement, Buyer shall contact \_\_\_\_\_ or \_\_\_\_\_ (each a "**Preferred Lender**"), or another lender selected by Seller, to obtain pre-approval of Buyer's ability to obtain a third-party loan. Buyer will be provided with all information requested by the Preferred Lender to enable the Preferred Lender to conduct loan pre-approval. **BUYER IS UNDER NO OBLIGATION TO UTILIZE THE PREFERRED LENDER TO FINANCE BUYER'S ACQUISITION OF THE UNIT.** Buyer hereby consents to providing to Seller information regarding Buyer's ability to obtain a third-party loan. If Seller determines, in Seller's sole and absolute discretion, that Buyer is unable to procure a third-party loan for acquisition of the Unit, or if Buyer fails to obtain pre-approval from a Preferred Lender as required hereunder, or if Buyer fails to co-operate with the pre-approval process, then Seller may terminate this Agreement. In the event Seller elects to terminate this Agreement, the Earnest Money, the Upgrade Payment, and the Site Selection Premium will be returned to Buyer and neither Seller nor Buyer will have any further rights or obligations under this Agreement except for those rights and obligations that expressly survive the termination of this Agreement.

### III.

#### UNIT COMPLETION

3.01. **Certificate of Occupancy.** Seller will be responsible for obtaining a Temporary or Final Certificate of Occupancy from the City of Austin for the Unit prior to Closing.

3.02. **Inspection.** At least ten (10) days prior to Closing, Seller will notify Buyer 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, Buyer and Seller will inspect the Unit, complete, and execute the **Orientation Addendum** attached hereto as **Exhibit "G"**. All items listed on the **Orientation Addendum** must be agreed upon by Buyer 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 Buyer to withhold any portion of the Purchase Price at the Closing. Buyer acknowledges that Seller 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*" as defined in **Section 8.05**. **Seller's obligation to complete the Agreed Punch List Items will expressly survive Closing.** Buyer acknowledges that Buyer's failure to attend the scheduled inspection will constitute Buyer's acceptance of the condition of the Unit as of the date of the inspection and Seller shall not be obligated to schedule another inspection prior to Closing.

3.03. **Insulation.** The type, thickness and R-Value of the insulation to be installed in each part of the Unit are set forth on the **Insulation Addendum** attached hereto as **Exhibit "J"**.

### IV.

#### TITLE AND SURVEY

4.01. **Title Commitment.** Within ten (10) days from the Effective Date, Seller will cause Kirby Title, LLC (the "**Title Company**") to issue and deliver to Buyer a title commitment (the "**Commitment**") by the terms of which the Title Company agrees to issue to Buyer an owner's policy of title insurance (the "**Title Policy**") on the standard form promulgated by the State Board of Insurance of Texas at Closing, insuring Buyer's fee simple title to be good and indefeasible, subject to the terms of such policy and the exceptions set forth therein. The Condominium Documents and the standard, printed form exceptions will constitute permitted exceptions to both the Commitment and the Title Policy. As required by the Real Estate Settlement Procedures Act of 1974, Buyer acknowledges that Seller has not directly or indirectly required Buyer, as a condition of sale, to purchase either an owner's or mortgagee's title insurance policy from any particular title company. **BUYER ACKNOWLEDGES THAT THE UNIT TO BE INSURED BY THE TITLE POLICY WILL NOT BE REFLECTED ON THE TITLE COMMITMENT UNTIL THE DECLARATION HAS BEEN RECORDED IN THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS. BUYER'S AND SELLER'S RESPECTIVE OBLIGATIONS TO CLOSE THIS TRANSACTION WILL BE CONTINGENT UPON SELLER'S CREATION OF THE UNIT BY RECORDATION OF THE DECLARATION PRIOR TO THE CLOSING DATE.**

**4.02. Plats and Plans.** Buyer acknowledges that Seller has provided to Buyer a copy of the Declaration which includes, among other things, the plats and plans (the “**Plats and Plans**”) pertaining to the Unit. Any additional survey of the Unit will be the sole obligation of Buyer, will be done at Buyer’s sole cost and expense, and will in no event delay Closing. Buyer 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. As a consequence, 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. Buyer has, or will have had prior to Closing, the opportunity to inspect the Unit, and upon acquiring the Unit, Buyer hereby expressly waives any claim or demand against Seller, Seller’s 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 Plats and Plans.

**4.03. Permitted Exceptions.** Within seven (7) days after the Commitment has been delivered, Buyer may provide Seller with written notice of any objections (“**Objections**”) which Buyer has to exceptions shown on the Commitment, other than those permitted under *Section 4.01* or this *Section 4.03*. Seller will have no obligation to cure or remove any Objections, but, if Seller elects not to cure any one or more Objections, then Buyer may, within five (5) days thereafter, elect to terminate this Agreement by giving Seller written notice of termination, in which case the Earnest Money will be returned to Buyer, and Seller and Buyer will have no further obligations hereunder. If Buyer fails to give written notice of termination within such five (5) day period, all Objections will be deemed waived. The term “**Permitted Exceptions**”, as used herein, will include: (a) all exceptions that are set forth on the Commitment which are not timely objected to by Buyer during the objection period herein provided; (b) any exceptions or conditions waived or deemed waived by Buyer; (c) the terms and provisions of the Condominium Documents; (d) any exceptions applicable to the Property which have no material adverse effect on the use of the Unit for residential purposes; and (e) all easements or encumbrances affecting the Property and/or the Unit on the Effective Date.

**4.04. Seller’s Obligation to Discharge Certain Encumbrances.** Notwithstanding any provision of this Agreement to the contrary, if there are any mechanic’s or materialmen’s liens or mortgages, deeds of trust, or other instruments creating a lien against all or any part of the Unit at Closing (other than any liens created by the Declaration, liens arising due to any third-party financing obtained by Buyer or any other acts of Buyer, or any liens which are the subject of Permitted Exceptions), Seller will be obligated to discharge such encumbrances of record even if Buyer fails to object to such encumbrances.

## 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 Buyer 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.

**5.02. Closing Disclaimer.** It is difficult to estimate a Closing Date for the Unit due to numerous factors outside of Seller'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. Seller is not liable to Buyer for expenses or lost opportunities relating to or resulting from delays in completing the Unit or scheduling of the Closing Date. **BUYER 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:

- (a) execute and deliver to Buyer a general warranty deed on Seller's prescribed form;
- (b) execute and deliver any documents contemplated by this Agreement to be executed and delivered at Closing; and
- (c) deliver physical possession of the Unit to Buyer.

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

- (a) deliver the Purchase Price (less the Earnest Money and any Site Selection Premium previously paid to Seller) to the Title Company for disbursement in accordance with the terms and provisions of this Agreement;
- (b) execute and deliver any documents contemplated by this Agreement to be executed and delivered at Closing;
- (c) execute and deliver such other documents and instruments as reasonably required by Seller and the Title Company to consummate the transaction contemplated by this Agreement; and
- (d) sign any and all instruments and documents and perform any and all acts reasonably requested by Seller in order to finalize the transaction.

**5.05. Purchase Expenses.** Unless provided otherwise by this Agreement, closing costs will be allocated between Seller and Buyer in the customary manner for this type of transaction.

- (a) Seller's Expenses include: (1) expenses incident to completing the Unit; (2) one half (1/2) of any escrow fee charged by the Title Company; and (3) all other expenses required by this Agreement to be paid by Seller.

- (b) Buyer's Expenses include: (1) the basic premium for the Title Policy and any endorsements thereto, recording fees, escrow fees, and the tax deletion; (2) one half (½) of any escrow fee charged by the Title Company; (3) all other expenses required by this Agreement to be paid by Buyer; (4) a closing document preparation fee equal to \$250.00; (5) an amount equal to two (2) months of the estimated monthly assessments applicable to the Unit as a working capital fee payable to the Association which will not be applied as a credit against assessments otherwise due and payable by Buyer pursuant to the Condominium Documents; and (6) all expenses incident to the financing of the Unit, including without limitation the mortgagee title policy.

**5.06. Prorations and Rollback Taxes.**

- (a) 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 Buyer 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, then the estimated taxes attributable to the Unit will be prorated between Seller and Buyer as of the Closing Date. 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 Buyer 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. If taxes are not paid at or prior to Closing, Buyer will be obligated to pay taxes for the current year. Cash reserves from regular condominium assessments for deferred maintenance or capital improvements established by the Association will not be credited to Seller. Any special assessment due and unpaid at Closing will be the obligation of Seller. The provisions of this *Section 5.06 (a)* will survive the Closing.
- (b) If construction of the Property or the Property's Common Elements before Closing results in the assessment of additional taxes, penalties or interest (collectively, the "**Assessments**"), for periods prior to the Closing Date, the Assessments will be the obligation of Seller. The provisions of this *Section 5.06 (b)* will survive the Closing.

**5.07. Condemnation and Casualty.** If all or a substantial part of the Regime 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: (a) terminate this Agreement pursuant to this *Section 5.07*, or (b) elect to repair such damage so long as such damage may be repaired in a period not to exceed 180 days from the occurrence thereof, including extensions for force majeure as described in *Section 8.05*, as reasonably determined by Seller. Seller shall give Buyer 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 shall be extended to a date designated in writing by Seller to Buyer, 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 180-day period, including extensions for force majeure, or if Seller fails to complete such repairs within such period, then Buyer 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 5.07*, the Earnest Money, Upgrade Payment and Site Selection Premium shall be refunded to Buyer. Upon the Closing, all risk of loss for damage to the Unit and appurtenant common elements shall be assumed by Buyer and such assumption of loss shall survive the Closing.

## VI.

### LIMITED WARRANTY

**6.01. Limited Warranty.** Buyer acknowledges and agrees that the only express warranty given by Seller to Buyer relating to the Unit is that limited warranty attached hereto as Exhibit "I". Buyer acknowledges that the terms of such Limited Warranty are clear, specific, and sufficiently detailed to establish the only standards of construction which Seller is obligated to meet.

For breach of the limited warranty, damages incurred by Buyer are limited to the lesser of the cost to repair or replace the defective item or the decrease in the market value of the item affected because of the defect. In no case shall Seller be liable to Buyer for punitive, incidental, speculative or consequential damages as a result of any breach of the limited warranty. Seller disclaims all other warranties, written or oral, express or implied (other than the warranty of title set forth in the deed for the unit), including warranties of merchantability and warranties of fitness for a particular use, regarding the improvements, fixtures, equipment, materials, or other property located on or being a part of the real property sold to Buyer pursuant to this agreement. No sample or model has been made part of the basis of the bargain or has created or amounted to an express warranty that the whole of the goods would conform to any such sample or model.

Buyer, by signing this Agreement, waives any claim or cause of action against Seller and any contractors or vendors hired by Seller under any theory of implied warranty of good and workmanlike construction and that any such implied warranty, to the extent it exists in Texas, is expressly replaced by the terms of the limited warranty. Seller specifically disclaims, and Buyer specifically waives and releases Seller and any contractor or vendor hired by Seller, from any claims or liability for incidental, special, indirect, or consequential damages to any person or real or personal property, including the real property underlying the Regime, resulting from a defect or flaw in any construction or materials. Seller makes no representation or warranty concerning any geological or environmental matters and specifically excludes geological and environmental matters from the limited warranty. Buyer hereby acknowledges and accepts such disclaimers and waives any and all rights Buyer may have by virtue of the representations and warranties disclaimed. Except as otherwise provided in the limited warranty, Buyer assumes the risk of damage occurring on or in the Unit after Closing, regardless of the cause.

**6.02. ASSIGNABLE WARRANTIES.** AT CLOSING, SELLER WILL ASSIGN TO BUYER ALL ASSIGNABLE MANUFACTURER WARRANTIES ON EQUIPMENT AND CONSUMER PRODUCTS INCORPORATED INTO THE IMPROVEMENTS, SUCH AS REFRIGERATORS, RANGES, DISHWASHERS, AND OTHER APPLIANCES OR EQUIPMENT. 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. BUYER 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.

**6.03 Disclaimer of Warranties; "As-Is, Where Is".** Buyer 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 Buyer 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 Specifications and Selections, 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, Specifications and Selections, 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 Specifications and Selections or any other improvements within the Property. Seller has not given and Buyer has not relied on or bargained for any such warranties. Buyer further acknowledges that Buyer has or will have the right to conduct its own independent examination of the Unit, Common Elements, the Specifications and Selections, 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 Specifications and Selections or any other improvements within the Property. Buyer 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).

Buyer 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. Buyer 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. Buyer 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 ARTICLE VI 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 Buyer 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 Buyer. Seller will have thirty (30) 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 thirty (30) day period, Buyer may terminate this Agreement by written notice to Seller whereupon the Earnest Money, any portion of the Upgrade Payment paid by Buyer to Seller, and the Site Selection Premium will be returned to Buyer. Upon termination of this Agreement, neither Seller nor Buyer will have any further rights or obligations hereunder. Buyer's right to terminate this Agreement and receive the Earnest Money, the Upgrade Payment, and the Site Selection Premium is Buyer's sole and exclusive remedy in the event Seller fails or refuses to comply with Seller's obligations under this Agreement.

**7.02. Buyer's Default.** In the event Buyer fails or refuses to comply with Buyer's obligations under this Agreement, then Seller must provide Buyer with written notice of such default ("**Buyer Default Notice**"). The Buyer Default Notice must include a description of the default being alleged by Seller. Buyer will have seven (7) days from receipt of the Buyer Default Notice to cure any default specified therein. If Buyer fails, refuses, or is unable to cure the specified default within such seven (7) day period, Seller may: (a) terminate this Agreement by written notice to Buyer with Seller being entitled to retain, as damages, Earnest Money, any Upgrade Payment, and the Site Selection Premium. Upon termination of this Agreement neither Seller nor Buyer 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 Buyer fails or refuses to comply with Buyer's obligations under this Agreement.

**7.03. Attorney's Fees.** If a legal proceeding is commenced in connection with a dispute between Seller or Buyer arising in connection with this Agreement, the prevailing party

in the proceeding will be entitled to recover from the non-prevailing party its reasonable attorney's fees, expenses and court costs. This *Section 7.03* will survive the Closing or earlier termination of this Agreement.

**7.04. Dispute Resolution.**

- (a) Prior to Closing. If a pre-Closing dispute relating to this transaction cannot be completely resolved to the satisfaction of both parties prior to Closing, then Seller, at Seller's sole discretion, may, on giving written notice to Buyer, terminate this Agreement and refund the Earnest Money, the Upgrade Payment and the Site Selection Premium to Buyer, notwithstanding anything to the contrary in this Agreement. Buyer will have no cause of action against Seller because of such termination.
- (b) After Closing. After Closing, the parties agree to mediate and arbitrate any disputes and Claims (as defined in Article 20 of the Declaration) in accordance with the Declaration, as applicable. Buyer acknowledges that any construction defect pertaining to the Unit or common elements will be resolved by mediation and binding arbitration. The procedures regarding mediation and arbitration are set forth in Article 20 of the Declaration. By executing this Agreement, Buyer acknowledges that Buyer has read Article 20 of the Declaration.
- (c) Right of Action by Association. The Association shall not have the power to institute, defend, intervene in, settle or compromise litigation or administrative proceedings: (i) in the name of or on behalf of any Unit Owner (whether one or more); or (ii) pertaining to a Claim, as defined in Article 20 of the Declaration, relating to the design or construction of a Unit (whether one or more). The foregoing sentence is expressly intended to remove from the power of the Association the right, under Section 82.102 of the Act, to institute, defend, intervene in, settle, or compromise litigation or administrative proceedings on behalf of two (2) or more Unit Owners on matters affecting the Regime. As more specifically provided in Article 20 of the Declaration, certain claims must be resolved by binding arbitration.
- (d) WAIVER OF JURY TRIAL. SELLER AND BUYER EACH KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY WITH RESPECT TO ANY "CLAIM" AS DEFINED IN ARTICLE 20 OF THE DECLARATION.
- (e) Survival. The provisions of this *Section 7.04* survive Closing or termination of this Agreement.



## VIII.

### MISCELLANEOUS PROVISIONS

8.01. **Disclosures.** Certain disclosures regarding the Unit and the Regime are set forth in the Declaration and are hereby incorporated herein by reference (collectively, the “**Condominium Documents Disclosures**”). Buyer acknowledges that the Disclosures apply to the Unit and that Buyer has read the Condominium Documents Disclosures.

8.02. **Entire Agreement.** THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN SELLER AND BUYER AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES. 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, REPRESENTATIVE 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. BUYER ACKNOWLEDGES THAT NO REPRESENTATIONS HAVE BEEN MADE BY SELLER OR ON BEHALF OF SELLER BY ANY BROKERS, AGENTS, EMPLOYEES OR REPRESENTATIVES OF SELLER OR IN ANY MARKETING OR OTHER MATERIALS IN ORDER TO INDUCE BUYER TO ENTER INTO THIS AGREEMENT EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER ACKNOWLEDGES THAT NEITHER SELLER NOR ANY BROKER, AGENT, EMPLOYEE OR REPRESENTATIVE OF SELLER HAS (A) MADE ANY REPRESENTATION OR STATEMENT TO BUYER OF THE INVESTMENT POTENTIAL OR RESALE AT ANY FUTURE DATE, AT A PROFIT OR OTHERWISE, OF THE UNIT; (B) RENDERED ANY ADVICE OR EXPRESSED ANY OPINIONS TO BUYER REGARDING ANY TAX CONSEQUENCES OF OWNERSHIP OF THE UNIT, OR (C) MADE ANY STATEMENT OR REPRESENTATION NOT SET FORTH IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY STATEMENT OR REPRESENTATION AS TO THE VIEWS FROM THE UNIT NOT BEING IMPACTED IN THE FUTURE. BUYER ACKNOWLEDGES THAT BUYER HAS READ AND UNDERSTANDS EACH AND EVERY PART OF THIS AGREEMENT. THE PROVISIONS OF THIS SECTION 8.02 SHALL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.

8.03. **Brokerage and Agency.** All obligations of the parties for payment of Brokers' fees are contained in separate written agreements.

8.04. **Disclaimer.** Buyer and Seller acknowledge that they have not relied upon any advice, representations or statements of Brokers and waive and shall not assert any claims

against Brokers involving the same. The term “**Broker**” as used herein, shall mean those parties executing the Broker Addendum. Buyer and Seller agree that Brokers shall not be responsible to advise Buyer and Seller on any matter, including but not limited to the following: any matter which could have been revealed through a survey, title search or inspection of the Unit; the condition of the Unit, any portion thereof, or any item therein; the necessity or cost of any repairs to the Unit; hazardous or toxic materials; the tax or legal consequences of this transaction; the availability and cost of utilities or community amenities; the appraised or future value of the Unit; any existing condition(s) of the Property; the terms, conditions and availability of financing; and the uses and zoning of the Property whether permitted or proposed. Buyer and Seller acknowledge that Brokers are not experts with respect to the above matters and that, if any of these matters or any other matters are of concern to them, they shall seek independent expert advice relative thereto.

BY ITS EXECUTION OF THIS AGREEMENT, BUYER ACKNOWLEDGES THAT, AT THE TIME OF EXECUTION OF THIS AGREEMENT, BUYER WAS ADVISED BY THIS WRITING THAT BUYER SHOULD HAVE AN ATTORNEY OF ITS OWN SELECTION EXAMINE AN ABSTRACT OF TITLE TO THE SUBJECT PROPERTY OR BUYER SHOULD BE FURNISHED WITH OR OBTAIN A POLICY OF TITLE INSURANCE COVERING THE UNIT.

**8.05. Force Majeure.** Force majeure events include events beyond Seller's control, including without limitation, impossibility of performance, acts of God, fire or other casualty loss, unanticipated adverse weather, hurricanes, gale force winds, flooding, strikes, boycotts, non-availability of materials or labor for which no substitute of equal quality and price is available, and acts of governmental agencies asserting jurisdiction over the Property.

**8.06. STATUTORY NOTICE OF MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION.** As a Buyer of property in the residential community in which this property is located, you are obligated to be a member of the Association. Restrictive covenants governing the use and occupancy of the Property and the dedicatory instruments governing the establishment, maintenance, and operation of the Property have or will be recorded in the Official Public Records of Travis County, Texas. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk after recordation. You are obligated to pay assessments to the Association. The amount of each assessment is subject to change. Your failure to pay assessments to the Association could result in a lien on and the foreclosure of your Unit.

**8.07. Effective Date.** The “**Effective Date of this Agreement**” refers to the date on which this Agreement has been fully executed by both Seller and Buyer.

**8.08. Unsold Units.** Seller retains the right to enter into leases with any third parties for the occupancy of any Unit so retained or acquired by Seller and not sold to any Buyer.

**8.09. Declarant's Rights.** Seller hereby gives Buyer notice that the “Declarant” has reserved certain rights under the Condominium Documents. Each Buyer is advised to review the Condominium Documents and Condominium Information Statement carefully for a description of these rights.



**8.10. Buyer's Access to the Unit.** Buyer agrees not to enter the Unit during construction without the express written consent of Seller unless accompanied by an employee of a designated representative of Seller. If Buyer enters the Unit during construction without the express written consent of Seller or without being accompanied by an employee of a designated representative of Seller, then Buyer shall pay a \$500 fine for each such occurrence. Buyer agrees that any entry onto the Unit is at Buyer's own risk. BUYER HEREBY WAIVES ANY AND ALL CLAIMS AGAINST SELLER FOR INJURY OR DAMAGE TO PERSON OR PROPERTY ARISING FROM ANY SUCH ENTRY BY BUYER. BUYER SHALL DEFEND, INDEMNIFY AND HOLD SELLER HARMLESS AGAINST ANY INJURY, LOSS, DAMAGE OR EXPENSE TO PERSONS OR PROPERTY ARISING FROM ANY ENTRY ON TO THE PROPERTY, WHETHER BY BUYER, ANY OTHER PERSON ACCOMPANYING BUYER, OR ANY PERSON ENTERING THE PROPERTY AT BUYER'S DIRECTION, PRIOR TO CLOSING, IN ALL CASES REGARDLESS OF THE CAUSE OR OF ANY CONCURRENT OR CONTRIBUTING FAULT OR NEGLIGENCE OF SELLER OR ANY BREACH OR FAILURE TO COMPLY WITH ANY OF THE PROVISIONS OF THE AGREEMENT BY SELLER. THIS SECTION 8.10 WILL SURVIVE THE CLOSING OR EARLIER TERMINATION OF THIS AGREEMENT.

**8.11. Binding Effect.** This Agreement will inure to the benefit of and be binding upon the heirs, successors and permitted assigns of Buyer and Seller. This Section 8.11 will survive the Closing or earlier termination of this Agreement.

**8.12. Notice.** Each notice, except for oral notice of Closing Date and the inspection as provided in Section 3.02, required or permitted to be given hereunder must comply with the requirements of this Section. Each such notice shall be in writing and shall be delivered either by personally delivering it by hand or Federal Express or similar courier service to the person to whom notice is directed, or by electronic mail, or by facsimile transmission, or by depositing it with the United States Postal Service, certified mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention). Such notice shall be deemed delivered at the time of personal or electronic delivery or, if mailed, when it is deposited as provided above, but the time period in which a response to any such notice must be given or any action taken with respect thereto shall commence to run from the date it is personally delivered or, if mailed, the date of receipt of the notice by the addressee thereof, as evidenced by the return receipt. Notwithstanding the above, notice by facsimile transmission shall be deemed to have been given as of the date and time it is transmitted if the sending facsimile machine produces a written confirmation with a date, time and telephone number to which the notice was sent. Rejection or other refusal by the addressee to accept the notice shall be deemed to be receipt of the notice. In addition, the inability to deliver the notice because of a change of address of the party to which no notice was given to the other party as provided below shall be deemed to be the receipt of the notice sent. The addresses of the parties to which notice is to be sent shall be those set forth on the signature page herein. Such addresses may be changed by either party by designating the change of address to the other party in writing. Notwithstanding anything to the contrary herein, in the event Seller requests Buyer provide consent to any item related to this Agreement, the consent by Buyer shall be deemed implied and consented to if Buyer fails to submit a response to any written request for consent within five (5) days after Buyer receives notice of the requested consent.

**8.13. Holidays and Weekends.** If any date or any period provided in this Agreement ends on a Saturday, Sunday, or legal holiday, the applicable period will be extended to the first business day following that Saturday, Sunday, or legal holiday. This *Section 8.13* will survive the Closing or earlier termination of this Agreement.

**8.14. Time.** Time is of the essence in all things pertaining to the performance of this Agreement. This *Section 8.14* will survive the Closing or earlier termination of this Agreement.

**8.15. Municipal Annexation.** If the Unit is located outside the limits of a municipality, the Unit may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Unit is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Unit for further information.

**8.16. Assignment.** Buyer may not assign its interest in this Agreement without Seller's prior written consent, which Seller may withhold in its sole and absolute discretion. Seller shall have the right to freely assign its interest in this Agreement without Buyer's consent, and following any such assignment by Seller, Seller shall be released from all rights and obligations under this Agreement, and Buyer shall look solely to Seller's assignee for performance of Seller's obligations. Seller shall also have the right to collaterally assign its interest in this Agreement as security for any financing obtained by Seller. This *Section 8.16* will survive the Closing or earlier termination of this Agreement.

**8.17. Utility Related Matters.** Buyer shall be responsible, at Buyer's sole cost and expense, for all utility deposits, account transfer fees, and subsequent usage incurred in connection with the delivery of utility services to the Unit. In addition, Buyer will also be responsible, at Buyer's sole cost and expense for all inspection fees and other governmental fees or charges of any kind or nature associated with Buyer's ownership of the Unit after Closing. Buyer 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 Project constructed by Seller or any predecessor developer. This *Section 8.17* will survive the Closing or earlier termination of this Agreement.

**8.18. Miscellaneous Provisions.** This Agreement may be signed in multiple counterparts, or in multiple originals. This Agreement must be construed and enforced according to the laws of the State of Texas. A court's invalidation of any provision of this Agreement does not invalidate any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general. Section captions are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate. The rule of construction that ambiguities in a document are construed against the party who drafted it will not be applied in interpreting this Agreement.

8.19. **No Recording.** Buyer may not file this Agreement or any memorandum or notice of this Agreement in any public record. If Buyer so files, Seller may terminate this Agreement and file a notice of termination. This *Section 8.19* will survive the Closing or earlier termination of this Agreement.

8.20. **Special Provisions.** (Insert only factual statements and business details applicable to the sale). \_\_\_\_\_

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

8.22. **Addenda.** The following marked addenda are attached to this Agreement and incorporated herein for all purposes:

- [X] Exhibit "A" – Kirby Title, LLC, Affiliated Business Arrangement Disclosure
- [X] Exhibit "B" – Broker Information and Ratification of Fee Addendum (**Signed and Completed by Buyer and Seller**)
- [X] Exhibit "C" – Earnest Money, Upgrade Payment and Site Selection Premium (**Signed by Buyer and Seller**)
- [X] Exhibit "D" – Upgrade Addendum (**Signed by Buyer and Seller**)
- [X] Exhibit "E" – Closing Procedure Summary Orientation Addendum (**Signed by Buyer upon completion of inspection**)
- [X] Exhibit "F" – Indoor Environmental Quality Disclosure
- [X] Exhibit "G" – Orientation Addendum (**Signed and Completed by Buyer and Seller**)
- [X] Exhibit "H" – Sample Warranty Deed
- [X] Exhibit "I" – Builder Express Limited Warranty and Performance Standards
- [X] Exhibit "J" – Insulation Addendum
- [X] Exhibit "K" – Communities with a Property Owners' Association
- [X] Exhibit "L" – Buyer Construction Expectations

**SELLER:**

**URBAN INTOWNHOMES, LTD.,** a Texas limited liability partnership

By: URBAN INTOWNHOMES GP, LLC, a Texas limited liability company, its General Partner

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

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

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

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

***BUYER SIGNATURE(S) APPEAR ON FOLLOWING PAGE***

**RCLA NOTICE TO BUYER: This Agreement is subject to Chapter 27 of the Texas Property Code, the Residential Construction Liability Act. 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 contractor 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 contractor, you must provide the contractor an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.**

BUYER:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

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

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

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

**TITLE COMPANY RECEIPT**

Kirby Title, LLC acknowledges receipt of this Agreement, executed and, if needed, initialed, by both Seller and Buyer this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "A"**

**KIRBY TITLE, LLC, AFFILIATED BUSINESS ARRANGEMENT DISCLOSURE**

[See Attached]

AFFILIATED BUSINESS ARRANGEMENT DISCLOSURE – EXHIBIT "A"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

**EXHIBIT "B"**

**BROKER INFORMATION AND RATIFICATION OF FEE ADDENDUM**

Seller's Broker \_\_\_\_\_ has agreed to pay Other Broker (as defined below) \_\_\_\_\_% of the Purchase Price as defined in *Section 2.01* of this Agreement when the Seller Broker's fee is received. The Title Company is authorized and directed to pay the Other Broker from Seller's Broker's fee at Closing.

**OTHER BROKER:**

\_\_\_\_\_

License No. \_\_\_\_\_

Other Broker represents:

☐ Buyer only as Buyer's agent

\_\_\_\_\_  
Associate's Name

\_\_\_\_\_  
Associate's Telephone

\_\_\_\_\_  
Broker's Address

\_\_\_\_\_  
Facsimile

email: \_\_\_\_\_

**SELLER'S BROKER:**

\_\_\_\_\_

License No. \_\_\_\_\_

Seller's Broker represents:

- ☐ Seller and Buyer as an intermediary  
☐ Seller only as Seller's Agent

\_\_\_\_\_  
Seller Associate's Name

\_\_\_\_\_  
Seller Associate's Telephone

\_\_\_\_\_  
Seller Broker's Address

\_\_\_\_\_  
Facsimile

email: \_\_\_\_\_

BROKER INFORMATION AND RATIFICATION OF FEE ADDENDUM – EXHIBIT "B"

BUYER: \_\_\_\_\_

BUYER: \_\_\_\_\_

SELLER: \_\_\_\_\_



**EXHIBIT "C"**

**EARNEST MONEY, UPGRADE PAYMENT AND SITE SELECTION PREMIUM**

The following shall be due and payable on the Effective Date in the following amounts:

<b>Earnest Money</b>	\$100.00. The Earnest Money will be credited towards the Purchase Price at Closing
<b>Upgrade Payment*</b>	100% percent of the Upgrade Payment (See <i>Section 2.02</i> ).
<b>Site Selection Premium*</b>	\$_____. The Site Selection Premium will be credited towards the Purchase Price at Closing.

\*Payments made to Seller for Upgrades are nonrefundable except as otherwise set forth in this Agreement and do not constitute Earnest Money.

\*\*The Site Selection Premium will be paid to Seller and need not be deposited in an interest bearing account. The Site Selection Premium is nonrefundable except as otherwise set forth in this Agreement and does not constitute Earnest Money.

EARNEST MONEY, UPGRADE PAYMENT AND SITE SELECTION PREMIUM – EXHIBIT "C"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

**EXHIBIT "D"**

**UPGRADE ADDENDUM TO AGREEMENT OF SALE AND PURCHASE**

This Upgrade Addendum to Agreement of Sale and Purchase (this "**Addendum**") is made by and between **URBAN INTOWNHOMES, LTD.**, a Texas limited partnership, as "**Seller**", and \_\_\_\_\_, as "**Buyer**", and is as follows:

1. **Incorporation into Agreement.** This Addendum is intended to be attached and incorporated into for all purposes that one certain Agreement of Sale and Purchase (the "**Agreement**"), between Seller and Buyer concerning the sale and purchase of a Unit in Springdale Creek Condominiums (the "**Unit**"). In the event of a conflict between the terms and provisions of the Agreement and those contained in this Addendum, the terms of this Addendum are intended to be, and shall be construed as, controlling.

2. **Upgrades.** Pursuant to *Section 2.02* of the Agreement, Buyer has requested that certain Upgrades be incorporated into the Unit. The Upgrades selected by Buyer are described on Attachment 1, attached hereto and incorporated herein by reference (the "**Upgrade Selections**"). Buyer will be required to complete and return this Upgrade Addendum and the Upgrade Payment to Seller within thirty (30) days of the Effective Date. The Upgrade Payment shall not be refundable to Buyer for any reason except in the event of a Seller default under the terms and provisions of this Agreement. If Buyer chooses to make changes to the standard materials for the 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. **Defined Terms.** All terms used but not defined in this Addendum shall have the meanings given to them in the Agreement.

4. **Counterparts.** This Addendum may be executed in multiple counterparts (including, without limitation, facsimile counterparts), each of which shall constitute an original and all of which in the aggregate shall constitute but one agreement.

*[SIGNATURE PAGE FOLLOWS]*

UPGRADE ADDENDUM – EXHIBIT "D"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

Executed to be effective as of the Effective Date of the Agreement.

**SELLER:**

**URBAN INTOWNHOMES, LTD.,** a Texas limited liability partnership

By: URBAN INTOWNHOMES GP, LLC, a Texas limited liability company, its General Partner

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

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

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

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

**BUYER:**

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

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

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

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

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

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

UPGRADE ADDENDUM – EXHIBIT “D”

BUYER: \_\_\_\_\_

BUYER: \_\_\_\_\_

SELLER: \_\_\_\_\_

**ATTACHMENT 1**

**Upgrade Selections**

**Check all upgrades selected by Buyer.**

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Total Upgrade Payment**

**\$ \_\_\_\_\_**

**Buyer(s) acknowledge(s) that upgrade items are subject to lender approval and may not be available in all unit types. Seller retains the right to substitute upgrade selections for comparable materials of comparable value. By signing this Addendum, Buyer(s) acknowledge(s) that the upgrades indicated have been reviewed and all selections are accurate.**

UPGRADE ADDENDUM – EXHIBIT “D”

BUYER: \_\_\_\_\_

BUYER: \_\_\_\_\_

SELLER: \_\_\_\_\_

**EXHIBIT "E"**

**CLOSING PROCEDURE SUMMARY**

[See Attached]

CLOSING PROCEDURE SUMMARY – EXHIBIT "E"

BUYER:\_\_\_\_

BUYER:\_\_\_\_

SELLER:\_\_\_\_

**EXHIBIT "F"**

**INDOOR AIR QUALITY**

[See Attached]

INDOOR AIR QUALITY ADDENDUM – EXHIBIT "F"

BUYER:\_\_\_\_

BUYER:\_\_\_\_

SELLER:\_\_\_\_

**EXHIBIT "G"**

**SIGNED UPON COMPLETION OF UNIT INSPECTION**

**ORIENTATION ADDENDUM**

**Home Owner:** \_\_\_\_\_

**Phone Number(s):** \_\_\_\_\_

**Unit Number:** \_\_\_\_\_

Congratulations on the purchase of your new home at Springdale Creek Condominiums. In preparation for Closing, **URBAN INTOWNHOMES, LTD.**, a Texas limited partnership (hereinafter called "**Seller**"), would like to familiarize you with some of the more important components of your home. Your Inspection Coordinator will review the following information with you:

- a. Water Shutoff (s)
- b. Breaker Box (electrical service panel)
- c. Cabinets & Counter Tops
- d. Appliances
- e. Flooring
- f. Window System
- g. Garbage Disposal
- h. Finish and paint
- i. Thermostat
- j. GFIC outlets (protected outlets)

By signing below, you acknowledge and agree that you have been oriented to the items **a** through **j** listed above, and that you were afforded the opportunity to ask questions about them.

**APPROVAL:** The undersigned Buyer, after thoroughly inspecting the improvements within the Unit (the "**Improvements**"), finds them fully completed pursuant to the Agreement of Sale and Purchase by and between Buyer and Seller and satisfactory, except for the items specifically listed as Agreed Punch List Items below. Buyer acknowledges and agrees that Buyer's possession of the Unit constitutes Buyer's acceptance of all Improvements and all conditions or circumstances existing in the Unit and Buyer waives and releases Seller, its agents, employees and subcontractors, and any broker, from any claim, rights of action or suits seeking rescission of this Agreement, damages or other relief based upon, or relating to, all Improvements and all conditions or circumstances existing in the Unit, except as may be covered by any express warranty under this Agreement, or the Agreed Punch List Items listed below.

ORIENTATION ADDENDUM – EXHIBIT "G"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

**AGREED PUNCH LIST ITEMS:**


**SIGNED UPON COMPLETION OF UNIT INSPECTION**

<b>Buyer:</b>	_____	_____
	(Please Print)	(Please Sign)

**Date:** \_\_\_\_\_

<b>Buyer:</b>	_____	_____
	(Please Print)	(Please Sign)

**Date:** \_\_\_\_\_

<b>Seller Representative:</b>	_____	_____
	(Please Print)	(Please Sign)

**Date:** \_\_\_\_\_



EXHIBIT "H"

SAMPLE WARRANTY DEED

**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.**

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

Grantor: \_\_\_\_\_, a Texas limited partnership, acting by and through its duly authorized General Partner.

Grantor's Mailing Address: 1520 Oliver Street, Suite 270, Houston, Harris County, Texas 77007

Grantee:

Grantee's Mailing Address: [include county]

Consideration: (as appropriate)

Property (including any improvements): (as appropriate)

Reservations from Conveyance: (as appropriate)

Without limitation of any other reservations from or exceptions to conveyance, Grantor hereby reserves out of the Property full fee simple title to all of the airspace overlying the Property from a distance of sixty feet (60') above the highest point of grade within the Property to a distance of five hundred feet (500') above the highest point of grade within the Property. Grantee understands and agrees by acceptance of this conveyance that Grantee will not own and will not have any rights or authority to regulate or use the reserved airspace, and that Grantor hereby retains all such rights and authority. As a material part of the Consideration Grantee also hereby agrees that if the foregoing reservation is hereafter determined by local, state or federal law or by applicable case law to be prohibited or invalid as to any person, entity, particular circumstance or property (including this Property), then (i) such prohibition or invalidity will not extend beyond such person, entity, particular circumstance or property (including this Property) and will not affect any other provisions of this reservation which can be given affect without the invalid provision or application, and to that end the provisions of this reservation are declared to be severable, and (ii) this reservation will be construed and deemed reformed to the extent (and only to the extent) required to conform this reservation to the requirements of any such law or court decision. Grantor and Grantee further agree that Grantor may, from time to time and without prior notice to or the joinder, consent or approval of Grantee, file of record a notice of any such reformation without further formality other than sending of a copy of the notice or other written notice thereof to the street address of the Property. The provisions of this reservation (including

SAMPLE WARRANTY DEED – EXHIBIT "H"

BUYER: \_\_\_\_\_

BUYER: \_\_\_\_\_

SELLER: \_\_\_\_\_

as to severability and reformation) also constitute restrictive covenants and/or equitable servitudes which will run with title to the Property. The foregoing provision and this conveyance of air rights also constitute restrictive covenants and/or equitable servitudes which will run with title to the Property, and which are binding on, which are enforceable by and which inure to the benefit of Grantor, Grantee and their respective heirs, successor and assigns.

Exceptions to Conveyance and Warranty:

This conveyance is made subject to any and all restrictions, minerals and/or royalty reservations, covenants, maintenance or similar charges, and easements, if any, relating to the hereinabove described property, but only to the extent that they are still in force and effect, shown of record in said County, and to all zoning laws, regulations and ordinances of municipal and other governmental authorities, if any, but only to the extent that they are still in effect, relating to the hereinabove described property.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs, successors and assigns to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

Furthermore, Grantor further grants, sells and conveys the Property to Grantee, and Grantee accepts this deed and title to the Property SUBJECT TO the following restrictive covenants and/or equitable servitudes hereby imposed and created on the Property by Grantor, which restrictive covenants and/or equitable servitudes are binding on Grantee, and Grantee's heirs, legal representatives, successors and assigns, and will run with title to the Property for the benefit of and be enforceable by Grantor:

The improvements on the Property are covered by an express limited warranty given by Grantor to Grantee in connection with the conveyance of the Property (the "Limited Warranty"). Any and all claims by Grantee or any subsequent owner of the Property concerning or relating in any way to or arising out of the condition, construction or repair of the Property or any improvement on or to the Property made by Grantor are governed by and limited by the Limited Warranty, including its dispute resolution procedures, which includes arbitration of all disputes, all other warranties having been waived to the fullest extent allowed by law. Nothing herein is intended to or shall create any privity of contract between Grantor and any owner of the Property subsequent to Grantee, or create any obligation or duty by Grantor to any owner of the Property subsequent to Grantee. Grantee, and each future owner of the Property shall be required to provide to each of their respective grantee or transferees a copy of Limited Warranty.

Taxes for the current year have been prorated between the Grantor and Grantee, and the Grantee assumes the payment thereof.

SAMPLE WARRANTY DEED – EXHIBIT "H"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:

\_\_\_\_\_  
a Texas limited partnership

By: \_\_\_\_\_  
a Texas limited liability company, its General Partner

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### **Grantee's Acceptance of Deed**

Grantee accepts this deed and consents to its form and substance. Grantee acknowledges that the terms of this deed conform with Grantee's intent. Grantee agrees to the obligations imposed on Grantee by the terms of this deed. The provisions of this deed are binding on and inure to the benefit of Grantor, Grantee and their respective heirs, successors and assigns.

\_\_\_\_\_  
Grantee

\_\_\_\_\_  
Grantee

[ACKNOWLEDGEMENTS]

SAMPLE WARRANTY DEED – EXHIBIT “H”

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

**EXHIBIT "I"**

**LIMITED WARRANTY**

[See Attached]

LIMITED WARRANTY – EXHIBIT "I"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

**EXHIBIT "J"**

**INSULATION ADDENDUM**

Listed below is certain information regarding the insulation installed or to be installed in each part of the improvements located on the Property.

The exterior walls of improved living areas are insulated with fiberglass or cellulose insulation to a thickness of 5.5 inches which yields an R-Value of 19. Walls in other areas of the home are insulated with fiberglass or cellulose insulation to a thickness of 3.5 inches which yields an R-Value of 11. Ceilings in improved living areas are insulated with fiberglass or cellulose insulation to an approximate thickness of 10 inches which yields an R-Value of 30. Floors of improved living areas not applied to a slab foundation are insulated with [\_\_\_\_\_] to a thickness of 6.5 inches which yields and an R-Value of 19. Other insulated areas insulated with fiberglass insulation to a thickness of 6.5 inches which yields and an R-Value of 19.

(R-Value means resistance to heat flow; the higher the R-Value, the greater the insulating power.)

All stated R-Values are based on information provided by the manufacturer of the insulation. Notwithstanding the foregoing, the insulation installed in certain areas may be of lesser thickness and R-Value than indicated because the structural integrity or design of the Property does not permit any greater thickness.

INSULATION ADDENDUM – EXHIBIT "J"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

**EXHIBIT "K"**

**COMMUNITIES WITH A PROPERTY OWNERS' ASSOCIATION**

[See Attached]

COMMUNITIES WITH A PROPERTY OWNERS' ASSOCIATION – EXHIBIT "K"

BUYER:\_\_\_\_

BUYER:\_\_\_\_

SELLER:\_\_\_\_

**EXHIBIT "L"**

**BUYER CONSTRUCTION EXPECTATIONS**

[See Attached]

BUYER CONSTRUCTION EXPECTATIONS – EXHIBIT "L"

BUYER:\_\_\_\_\_

BUYER:\_\_\_\_\_

SELLER:\_\_\_\_\_

CLOSING MEMO

NUMBER

DATE

**PENDING SALE/CLOSING MEMO**

CONTRACT DATE	ESTIMATED COMPLETION	ESTIMATED CLOSING	STAGE @ CONTRACT

**BUYER INFORMATION**

BUYER	CURRENT ADDRESS		
EMAIL	OFFICE	FAX	MOBILE
2ND EMAIL	2ND OFFICE	2ND FAX	2ND MOBILE

**BROKER INFORMATION**

BROKER INFO	PER. %	AGENT NAME	
EMAIL	OFFICE	FAX	MOBILE

**BUILDER INFORMATION**

PROJECT MANAGER	SALES CONSULTANT
JOB ADDRESS	SUBDIVISION
LEGAL DESCRIPTION	FLOORPLAN

**FINANCIAL INFORMATION**

LIST PRICE	UPG INCL IN S/P	SALES PRICE	ALLOWANCE
MORTGAGE COMPANY			TITLE INSURANCE \$

**NON-REFUNDABLE/ADDITIONAL DEPOSIT**

BANK NAME	CHECK #	TYPE	AMOUNT \$
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# **ADDENDUM E**

## **INDOOR ENVIRONMENTAL QUALITY DISCLOSURE**

There are many different types of indoor environmental contaminants, such as pet dander, dust mites and mold. Molds and other potential contaminants have always been a part of our environment. Contaminants are everywhere, indoors and outdoors. Therefore, everyone is exposed to some contaminants on a daily basis without evident harm. Due to a number of factors, including the fact that sensitivities to various types of mold and other potential contaminants vary from person to person, there are no definitive state or federal standards concerning acceptable levels of exposure to mold. According to the Consumer Product Safety Commission and the American Lung Association, some diseases or illnesses have been linked with biological pollutants in the indoor environment. You should determine for yourself whether you, your family members or any other individuals who will occupy or use the home have special needs or increased risk to these conditions. You should carefully monitor the conditions in your home for mold growth and other contaminants.

When excessive moisture or water accumulates indoors, mold growth can and will occur, particularly if the moisture problem remains unaddressed. There is no practical way to eliminate all molds or mold spores in an indoor environment. The key to controlling indoor mold growth is to control moisture.

There are many ways to help control moisture in and beneath your home. The US Environmental Protection Agency, the Consumer Safety Commission, the American Lung Association and others recommend taking measures such as those listed below to help control moisture in and beneath your home. The following list is not all-inclusive.

Fix leaking plumbing and any other source of unwanted water immediately.

Maintain proper indoor humidity. Equipment that conditions the air, such as conditioners, humidifiers and ventilation systems must be operated year round.

Raise the temperature in areas where moisture condenses on surfaces and open doors between rooms to increase the air circulation in the home, including doors to closets.

Have major appliances, such as furnaces, heat pumps, central air conditioners, window air conditioning units, ventilation systems and furnace attached humidifiers inspected, cleaned and serviced regularly by a qualified professional.

Clean and dry refrigerator, air conditioner, and dehumidifier drip pans and filters regularly and make sure that your refrigerator and freezer doors seal properly.

Keep water away from your foundation by maintaining required slopes, drainage and keeping plantings and sprinklers the proper distance from your home.

If you have a crawl space or structural sub-floor, inspect the ground beneath your floor on a regular basis to make sure there is not standing or excessive water. If there is standing or excessive water, seek professional assistance to remove the water.

The following are suggestions that may assist you in preventing and addressing mold growth in your home.

It is imperative that you respond properly when you see signs of moisture or mold.

Do not allow moisture to stand or make contact with carpet, furniture and cellulose-based materials, such as wood, drywall or other non-tile, non-plastic or non-metal materials.

Dry all water damaged areas and items immediately to prevent mold growth.

If mold develops, clean up the mold by washing off hard surfaces with detergent and water and completely dry the surface.

Depending upon the nature and extent of the mold infestation, trained professionals may be needed to assist in that remediation effort.

Mold that has not properly and adequately been removed may reappear.

Proper maintenance and cleaning of the home is the responsibility of each homeowner and will lessen the potential for water intrusion and help to control indoor environmental contaminants. Further, it is the responsibility of each homeowner to monitor their home on a continual basis for excessive moisture, water and mold accumulation. If you discover accumulation of water or moisture in, around or under your home, immediately seek to control the source of the water or moisture. Failing to control the source could result in additional damage and the growth of mold. Plumbing leaks and water penetrations that are covered by the Limited Warranty during the term of the warranty must be reported to us immediately. If your warranty has expired or the Limited Warranty does not cover the specific problem, you should not delay in having professionals address the problem. We will not be responsible for water-related damages, including personal injuries or property damage caused by mold, but only to extent that the damages are caused by warrantable defects during the warranty period.

Signature: \_\_\_\_\_  
Homebuyer #1 Date

Signature: \_\_\_\_\_  
Homebuyer #2 Date

**Addendum for Communities with a Property Owners' Association  
Concerning the Property at**

\_\_\_\_\_  
(Address of Property)

- \_\_\_\_ 1. This Property is located in a highly restricted subdivision subject to detailed restrictions, rules and other governing documents of the community ("Restrictions"). An overall purpose of the Restrictions is to establish a first-class urban residential community for owners seeking consistent high-quality architectural appearance and overall maintenance controlled by a professionally managed property owners' association ("POA").
- \_\_\_\_ 2. Buyers/Homeowners understand they must abide by the Restrictions of their community.
- \_\_\_\_ 3. Membership in the POA is mandatory.
  - \_\_\_\_ a) The POA will be controlled by the developer until most or all of the homes in the community are constructed and sold to homeowners (the "Development Period").
  - \_\_\_\_ b) Homeowners must maintain capabilities for communications with the POA by email and other "electronic means" as defined in the Restrictions. Homeowners must notify the POA within 30 days after acquiring any ownership interest in a lot and, at that time and from time to time thereafter as requested by the POA, must provide "contact information" as defined in the Restrictions (such as name, telephone numbers and email addresses).
- \_\_\_\_ 4. Buyers/Homeowners are required to pay mandatory assessments and other charges to the POA.
  - \_\_\_\_ a) All assessments are paid to and are for the exclusive use of your POA.
  - \_\_\_\_ b) The developer will set the amount of annual assessments (and utility assessments, if applicable) during the Development Period.
  - \_\_\_\_ c) The amount of assessments are based on estimates of future expenses which cannot be determined with certainty. The amounts of assessments may therefore increase over time.
  - \_\_\_\_ d) If the POA pays to provide water to your residence assessments will include a utility assessment for water. The utility assessment may also pay for private trash pick-up service and/or water and storm/sanitary conveyance systems, as applicable.
  - \_\_\_\_ e) Buyer will be required to pay a one-time "capitalization fee" to the POA at closing, usually equal to 50% of the amount of the regular annual assessment. If applicable the fee is paid by buyer at closing. This fee is to fund a type of contingency reserve to help the POA pay unanticipated expenses and/or unanticipated increases in expenses.
- \_\_\_\_ 5. The POA has a continuing lien to secure payment of assessments and other charges due to the POA. This lien may be foreclosed even if the property is your homestead.
- \_\_\_\_ 6. Available parking in the community is limited, highly restricted and strictly regulated.
  - \_\_\_\_ a) Vehicles may be parked in a private driveway for your Property only if the driveway is long enough for proper parking of the entire vehicle in the driveway so no part of the vehicle crosses or extends into any part of any sidewalk or street, including any street ("shared

## Addendum for Communities with a Property Owners' Association Concerning the Property at

\_\_\_\_\_  
(Address of Property)

Page 2 of 3

drive") within the community. At least 1 vehicle must be parked in a 2-car garage, or 2 in a 3-car garage, before any vehicle may be parked in the private driveway for your Property.

- \_\_\_\_\_ b) If the Property does not have a private driveway of sufficient size to park in, then the maximum number of vehicles that your garage will allow must be parked in the garage.
  - \_\_\_\_\_ c) Parking within any street ("shared drive") within the community is generally not permitted or is limited to one vehicle per lot, and then only if vehicles as to the lot are first parked in the garage and/or private driveway as above stated.
  - \_\_\_\_\_ d) Owners and occupants may be required to register their vehicles with the POA.
  - \_\_\_\_\_ e) Guest parking may not be available. If it is, only guests (and not residents) may park in any guest parking space, and no guest may park in a guest parking space longer than 3 consecutive days or more than 5 days in any 30-day period unless the POA approves in writing.
  - \_\_\_\_\_ f) Garages may not be of sufficient size to permit parking therein of the same number of large vehicles as the customary description of the garage. For example, a "two-car garage" may not be large enough to permit parking therein of two SUV's or two other large vehicles. This size limitation is not a basis for non-compliance with applicable Restrictions.
  - \_\_\_\_\_ g) Towing will be strictly enforced for any parking violations.
  - \_\_\_\_\_ h) The parking provisions of the Restrictions generally do not apply regarding any "development activities" of the developer, builders or their personnel.
  - \_\_\_\_\_ i) The parking provisions of the Restrictions are subject to amendment from time to time by amendment of the Restrictions as stated below and/or by adoption of rules and regulations as provided in the Restrictions.
- \_\_\_\_\_ 7. Garage doors are to remain closed except when entering or leaving the garage.
  - \_\_\_\_\_ 8. Buyers/Homeowners must control and clean up after their pets. No more than 2 household pets are allowed as to each residence.
  - \_\_\_\_\_ 9. Garbage cans or bags may not be set out in public view earlier than 8 hours prior to each trash pickup day, and must be stored out of public view by the end of the trash pickup day.
  - \_\_\_\_\_ 10. Homeowners must keep their homes in compliance with all applicable fire codes, including as set forth in the International Resident Code (IRC) and/or Houston Building Code.
  - \_\_\_\_\_ 11. All information (including as to community amenities) is subject to change; do NOT rely on any of the pre-printed materials or verbal representations of anyone in making this buying decision. The developer has the right during the Development Period to add, change, remove or discontinue any amenities at any time without notice.

**Addendum for Communities with a Property Owners' Association  
Concerning the Property at**

\_\_\_\_\_  
(Address of Property)

Page 3 of 3

- \_\_\_\_\_ 12. Seller/Builder, the developer and the POA cannot and do not guarantee any specific date(s) for construction, installation, operation or completion of any amenities, including as to limited access gates, if any, or for completion of construction of residences or other development, or for being sold out in the community.
- \_\_\_\_\_ a) Buyers/Homeowners acknowledge that they must pay the full amount of all assessments and other charges due to the POA even though the amenities are not done or operational.
- \_\_\_\_\_ b) Buyers/Homeowners acknowledge that if limited access gates are planned for this community, even when installed the limited access gates may be left open at any and all times during the Development Period for the community in the sole discretion of the developer.
- \_\_\_\_\_ 13. Security is the responsibility of owners and occupants and of local law enforcement. Seller/Builder, the developer and the POA cannot and do not provide any assurances, representations or warranties regarding security, including as to the quality or effectiveness of limited access gates or any other security devices or services.
- \_\_\_\_\_ 14. There may be conditions within or within the vicinity of the subdivision and/or other matters of record which are not suitable for particular persons, including as set forth in the Restrictions in general and in any property conditions and other notices, releases and indemnities set forth in the Restrictions in particular. It is the sole responsibility of each prospective buyer, homeowner, tenant, occupant and other affected persons to independently investigate and verify the presence or absence of any such conditions and to otherwise confirm suitability.
- \_\_\_\_\_ 15. The Restrictions are subject to amendment, including the unilateral right of the developer to amend at any time during the development period. The Restrictions control in the event of any conflict with this Addendum.
- \_\_\_\_\_ 16. This Addendum will survive closing.

**NOTICE: THE RESTRCITIONS SUBSTANTIALY AFFECT YOUR RIGHTS AND OBLIGATIONS AS AN OWNER OF PROPERTY IN THIS COMMUNITY. READ THEM CAREFULLY. THE FOREGOING IS NOT A SUBSTITUTE FOR REVIEW OF THE RESTRICTIONS.**

\_\_\_\_\_/\_\_\_\_\_  
Buyer Date

\_\_\_\_\_/\_\_\_\_\_  
Buyer Date

**IT IS THE RESPONSIBILITY OF ALL HOMEOWNERS TO ENSURE ENFORCEMENT OF THE RESTRICTIONS AND OTHER GOVERNING DOCUMENT OF THE COMMUNITY. PLEASE REPORT ALL VIOLATIONS DIRECTLY TO THE MANAGEMENT COMPANY**

## BUYER AND CONSTRUCTION EXPECTATIONS

The parties agree that all qualities, material, and workmanship shall be of Seller's standard and choice unless otherwise expressly agreed in writing. Standard may vary by community. Seller reserves the right to change Seller's standard from time to time.

### COMMUNICATION

In an effort to most efficiently serve our buyers, all communication should be directed to your salesperson. All agreements **must be in writing**, no verbal agreements are permitted. All meetings and walkthroughs are to be attended by parties to the contract only.

### SELECTIONS

Selections are pre-made at slab stage. Buyer's ability to customize interior selections may be limited depending on stage of construction. Selection opportunities will be determined on the date of your design meeting, not the date of contract, with no guarantees. **Pre-ordered selections cannot be changed.** Buyers have a (2) hour complimentary meeting with the designer. Additional time will be charged at \$75 per hour. **There will be no selections available after insulation.**

- Buyer shall make selections permitted by Seller from options offered by Seller only. Selections are limited - limited selections are one factor which permits Seller to offer its competitive prices. Buyer is responsible for maintaining complete records of all selections. In the event any selection is not in stock, you must make a different selection within 2 days after you are notified. If you do not make the selection within 2 days, Seller may install such selection of Seller's choosing. Selections by Buyer of any 12"x12" material may, at Seller's sole discretion, automatically be upgraded to 16"x16" or 18"x18".
- No credit will be given for any deletions. Seller reserves the right to collect additional nonrefundable payment on certain selections. Buyer agrees to pay for any upgrades at the time of selection. Unused allowances will not be refunded to the Buyer.
- Exterior selections are not allowed unless offered and approved by Seller.
- Cabinets cannot be changed once they are ordered. Cabinet configuration may vary from plan to plan and from home to home.

### PLAN AND LOT

- Floor plan brochures may not reflect changes per building permit process.
- All square footages for floor plans and lots are best estimates only.
- Utilities may be located on your lot. These include, but not limited to: electrical poles, meter racks, cable and phone hubs, and fire hydrants. Every effort will be made to landscape around them.

### CONSTRUCTION EXPECTATIONS

**Seller reserves the right to substitute equally performing materials during construction.**

### QUALITY OF WORKMANSHIP

- Your home is hand built. While we strive to build a defect free home we may make mistakes, and when we do we will correct them in a manner consistent with the limited warranty agreement that you will receive at closing. Workmanship will be comparable to model home in your community.

### FOUNDATION

- Our foundations are engineered, certified and inspected. The foundation type will be determined by soil samples and engineering, therefore may vary by location.

### FRAMING

- Garage ceiling height may differ from the ceiling height of the house.

## BUYER AND CONSTRUCTION EXPECTATIONS

- Structural engineering dictates framing. Horizontal and vertical fur-downs may be added to accommodate mechanical equipment. Seller reserves the right for the placement of: A/C chases, A/C condenser and equipment, electrical box and fixtures, plumbing fixtures, HVAC grills and registers. Location of any or all of the foregoing may vary from home to home.
- Bonus room on top floor (if applicable) - arrangement and size is conceptual and may vary per engineering design. Structural members will dictate actual ceiling lines and fur-downs.

### STUCCO

- Stucco, like any other masonry surface, may develop cracks from various sources such as shrinkage, expansion, or normal settlement. Proper maintenance is required. It is recommended that the stucco surfaces of your home be inspected yearly to determine if the surface is in need of cleaning or repairs.
- Probably the most important factor in maintaining stucco is the paint. Your home is completed with an elastomeric (rubberized) style of paint. This is used to help seal the stucco and make it more weather resistant from moisture intrusion. This paint will need to be reapplied periodically in order to help keep your stucco in its best condition.

### WOOD

- Seller may have treated the Property for termites, other insects or pests but Seller shall have no liability to Buyer with respect to any insect-related matters. Buyer is responsible for yearly pest inspections and any treatments after closing.
- ALL EXTERIOR WOOD, INCLUDING, WITHOUT LIMITATION, WINDOWS, DOORS, TRIM, SIDING AND EXTERIOR SHUTTERS REQUIRE REGULAR MAINTENANCE BY BUYER INCLUDING, CLEANING, PAINTING AND CAULKING, ETC. WOOD GARAGE DOORS REQUIRE REGULAR MAINTENANCE TO ENSURE THEIR LONGEVITY AND BEAUTY. AFTER THE CLOSING, SELLER SHALL HAVE NO RESPONSIBILITY TO PERFORM ANY WORK ON ANY INTERIOR OR EXTERIOR WOOD INCLUDING, BUT NOT LIMITED TO, REPAIRS RELATING TO PAINT, WOOD ROT, MILDEW, CAULKING AND SHRINKAGE, ETC.

### INTERIOR TRIM AND DOORS

- Only operable doors will have hardware installed.
- 8 foot exterior doors will be harder to open and operate than 6 foot 8 inch doors.

### PAINT

- Minor imperfection in sheetrock texturing is to be expected and considered normal.
- Selection of dark colors is NOT permitted.
- All wall colors are latex and no eggshell paints are allowed. Paint color may vary with dye lots.
- Gutters are factory painted. Steel lintels will be primed and painted with acrylic gloss enamel.

### TILE

- All showers will have a ceiling height of approximately 7'6" with tile installed on the walls.
- Ceramic tile will go up approximately 7' from floor behind secondary tubs.
- Special tile borders, inserts, and designs are available at an additional cost.
- Color of tile may vary from dye lot to dye lot.
- Tile will require regular maintenance by Buyer including cleaning and caulking, etc.

### MARBLE AND GRANITE

- Marble has no warranty on suitability, performance, durability or appearance and may require special sealants for proper protection.
- Seams in countertops are to be expected depending on the width, length, and shape of countertops.
- Certain colored marble tiles and marbles with factory applied reinforcing require epoxy setting systems at an additional charge.
- Buyer is advised that color and surface variations are inherent in stone, granite, and other products made from natural materials (like brick) and that breaks may occur subsequent to closing. Such conditions along

## BUYER AND CONSTRUCTION EXPECTATIONS

with unique and dissimilar veining, luster and textures are not the responsibility of the Seller and will not form the basis of request for corrective work.

- Geological flaws, irregular markings, voids, fissures, cracks, lines and/or minor separations are also characteristics of quarried natural stones. It is a standard practice by the manufacturer to repair these separations by waxing, filling, or reinforcements with non-stone products. Such practice will not impair the function or wear of the stones. All of these variations and characteristics are common and present to some degree. However, part of the beauty of having natural stone is the characteristics. Tumbled marble, stone and tile will have holes on the surface and edges. If tile needs to be repaired or patched, the new lot may have shade variation compared to the original lot.
- Properties of mosaics may not appear to lay perfectly straight due to difference in size and thickness as well as unevenness of the mesh sheets. Therefore, deco liners and borders will have a rustic look which appear uneven and not usually in a straight line.
- Grout joints can vary up to 1/8" due to squareness of tile. Grout joints are not resistant to stain or dirt. Keeping grout clean is the responsibility of the homeowner.

### FLOORING

- A regulated temperature and humidity level is necessary to maintain hardwood floors. Variations can cause wood floors to raise or even buckle. It is important that the HVAC system be used daily to maintain a consistent temperature and humidity range within the home.

### FLATWORK

- Actual design of steps may vary depending on final grade of yard.
- Seller is not responsible for repairing city curbs or streets.

### GARAGE

- If the garage is attached, it will be finished w/ sheet rock and one coat latex paint but no texture; no built-ins or cabinets included.
- If the garage is detached, it will be framed on the inside without sheet rock or paint.
- Pre painted standard color steel overhead door with garage door opener and two remote transmitters included. Garage door to have maximum width of 16 feet.
- Seller is not responsible for transition or incline from the street to garage floor elevation for the clearance of vehicle's undercarriage. Buyer needs to field verify the size of the garage.

### MISCELLANEOUS

- Residential air conditioning system is designed to cool **relative** to the outside temperature.
- Buyer agrees not to direct subcontractors in work performed. Seller reserves the right to charge Buyer for any delays due to such intervention.
- Roof decks are not designed to support excessive weight such as hot tubs, solid concrete planters, and other heavy items. Roof decks are not to be altered in any way.
- Broken windows, leaks, sheetrock damage, construction debris and trash are usual occurrences during the construction process. All will be addressed at appropriate point of time before closing.
- We do not provide window screens and they are not allowed during development. All screens and installation of such are subject to your HOA approval after development.
- Seller will not be responsible for the survival of any trees during or after construction.
- Each home is constructed with positive drainage that allows water to runoff from home and property. It is the homeowner's responsibility to maintain drainage patterns. Use caution when adding pools or landscaping that may affect drainage. Gutters and downspouts should be inspected regularly for blockage and cleared.
- The closing date is **TENTATIVE** and is only an **ESTIMATE**. This date should NOT be relied upon to turn in lease, lock in interest rates, or schedule moving and deliveries.
- The surface of all upstairs balconies and roof decks will be Thermoplastic Polyolefin (TPO) - flat roof protective liner - with a composite wood deck on top of the liner. Buyer must NOT cut, tear, or penetrate the liner



## BUYER AND CONSTRUCTION EXPECTATIONS

otherwise water leakage may occur and Seller is not responsible. Drainage on a roof deck should be kept clear of obstructions that would impair water run-off.

- Nichiha fiber cement sidings/panels are used on exterior of homes.
- The amount of water pressure is controlled by the City or utility district in the Homeowner's area and the Builder has no control over how much water is supplied to the home. Water pressure may vary from community to community or home to home. The height of the home will impact the amount of water pressure and the Homeowner should expect lower pressures with taller built homes. The Builder is not responsible for water pressure variations originating from the water supply source.
- Seller will request the utilities to be disconnected within 3 business days after closing. Buyer is responsible for setting up utilities in their name timely to avoid interruption of services and reconnection fees.

### SAFETY

Construction sites are NOT safe places to visit during construction. If you choose to enter these areas at any time, it will be at your own risk. Please take precautions and wear appropriate shoes, ie: no flip flops, high heels, open toe shoes; and hard hat. Watch for loose railings and debris overhead and on the ground. If an accident occurs, the seller is not responsible for bodily harm to you or damage to your vehicle. Please, no children or pets.

### FLOODPLAINS, LOW LYING AREAS, DETENTION LAKES AND OVERFLOW AREAS

Our homes are designed with precipitation concerns in mind and we follow city, state and federal requirements for such concerns. Properties in a floodplain or low lying area may experience rising water or water intrusion into a home's garage or crawl space; or standing water in shared streets and driveways.

Properties that may not be in a floodplain may have detention ponds and overflow areas. These features are designed to hold a specific amount of water. During abnormal rainfall these areas may experience temporary flooding. In some cases, shared streets, drives and other areas may be designed to be detention area. There are also City and EPA requirements for developments with regards to drainage during ongoing construction that must be followed by developer and home owners.

### HOME MAINTENANCE

A home is a hand built product and although we use quality materials and workmanship in your home, this does not mean it will be free from care and maintenance. A home requires care and attention. General home maintenance is essential to retaining a quality home.

- Special attention should be given to: 1) Exterior and interior painting; especially re-sealing and re-painting exterior windows and doors, 2) caulking, 3) tile grouting, 4) mahogany front doors need to be re-coated and/or re-stained, 5) replacing A/C filters as recommended.
- Your home will experience paint shrinkage and separation. This is normal and occurs due to drying out of the materials. The Buyer is responsible for any paint touch up or caulking resulting from shrinkage after closing.
- Your homes appliances, water heater, electrical, and HVAC system need regular maintenance. Be sure to check the manufacturer's booklets and websites for information about the specific tasks recommended and their schedule.

### WARRANTY

- A sample of your warranty has been provided to you. The original warranty will be given to you at closing. Please become familiar with this document and refer to it prior to sending in a warranty request.

## BUYER AND CONSTRUCTION EXPECTATIONS

- **Please log all warranty requests on our website.** Your request will be acknowledged by phone or email in approximately 2 business days to advise you of the anticipated service schedule.
- In the case of an emergency please contact the contractor directly. Emergency contact numbers will be provided to you prior to closing at your final walkthrough. In the case of non-emergency items **please aggregate** your list to optimize service calls and your time to wait for such service calls.
- There will be no charge for service calls under warranty. However; you will be subject to service call fees should the service call be for a non-warranted item.
- Warranty service is not designed to handle “cosmetic” or normal maintenance items. All cosmetic items are deemed accepted at closing and maintenance items are the responsibility of the owner after closing.
- Warranty does not cover repair, loss or damage due to **extreme** weather conditions. Your homeowner insurance policy or flood policy should cover these claims.
- Water leaks may take time to determine the source of the leak.

## HOA & COMMUNITY AMENITIES

Developments with HOA may have a one-time cap fee. This fee is contributed to the HOA reserve account used in case of a community expenditure shortfall.

Community amenities may not be complete prior to your move in. Homeowner assessments will be collected in full from and after closing (prorated from your closing date). There will not be any refunds or credits for incomplete amenities. Community amenities will vary by community.

## PARKING

In gated communities, residents are required to park inside of their garages. Guest parking is reserved for guests only. All additional parking must be outside of the community. Please refer to the HOA Covenants and Restrictions for your community regarding parking restrictions.

Acknowledged and agreed to by buyer(s).

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