

OLD FITZHUGH TOWNHOMES
SALE INSTRUCTIONS

1. PRESENT PROSPECTIVE PURCHASER WITH CONDOMINIUM INFORMATION STATEMENT.
2. COMPLETE CONDOMINIUM INFORMATION STATEMENT. PROSPECTIVE PURCHASER EXECUTES RECEIPT (PAGES 1 AND 2 OF CONDOMINIUM INFORMATION STATEMENT).

DETACH RECEIPT (PAGES 1 AND 2 OF CONDOMINIUM INFORMATION STATEMENT) AND RETAIN IN SELLER'S FILES.
3. COMPLETE CONTRACT BASIC TERMS (PAGE 1 OF CONTRACT).
4. COMPLETE BROKER ADDENDA ATTACHED TO CONTRACT.
5. PURCHASER EXECUTES CONTRACT AND THE FOLLOWING ADDENDA ATTACHED TO THE CONTRACT:
 - A. ARBITRATION ADDENDUM
 - B. LIMITED WARRANTY ADDENDUM
6. PURCHASER AND SELLER INITIAL EACH PAGE

OLD FITZHUGH TOWNHOMES
AGREEMENT OF SALE AND PURCHASE: BASIC TERMS

Seller: **Art Investment & Mortgage Co.,**
a Texas corporation, d/b/a La Vid Urban Homes
P.O. Box 161775, Austin, Texas 78716
Ph: 512-263-9446 Fax: 512-263-1003

Listing Broker: **L. H. Hardy, Jr.**
P.O. Box 161775, Austin, Texas 78716
Ph: 512-263-9446 Fax: 512-263-1003 Cell: 512-784-7139
email address: rick@certhomes.com

Buyer: _____

Ph: _____ Fax: _____ Cell: _____
email address: _____

Buyer's Broker: _____

Ph: _____ Fax: _____ Cell: _____
email address: _____

Unit: Unit # _____, 430 Old Fithugh Road, Drippings Drippings, Texas 78620 - Old Fitzhugh Townhomes, as more particularly described in **Section 1.04** below.

Title Company: Gracy Title Co.
1801 So. Mopac, Suite 250, Austin, Texas 78746
Ph: 512-306-1120 Fax: 512-306-0104

PRICE: Base Price: \$ _____
Plus Upgrade Payment: \$ _____ (*See Section 3.02*)
Purchase Price: \$ _____

Earnest Money: \$ _____ due on the Effective Date of this Agreement
(*See Section 2.02*)

Method of Purchase : Cash Financing
Effective Date: _____ (*To be filled in with date last party signs*)

Closing Date: _____ (*See Section 5*)

Buyer intends to use the Unit as (check one): a primary residence secondary residence investment

BUYER: _____
SELLER: _____

OLD FITZHUGH TOWNHOMES
AGREEMENT OF SALE AND PURCHASE

THIS AGREEMENT OF SALE AND PURCHASE (this “**Agreement**”) is entered into between **ART INVESTMENT & MORTGAGE CO.**, a Texas corporation, d/b/a La Vid Urban Homes (“**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 General Common Elements and any Limited Common Elements assigned to the Unit, as identified and allocated to the Unit in the Regime, defined and described in *Section 1.03* below.

1.03. Condominium Documents. The Unit is located in Old Fitzhugh Townhomes (the “**Regime**”), a condominium project located in Hays County, Texas, which is or will be made subject to that certain Declaration of Condominium Regime for Old Fitzhugh Townhomes, recorded in the Official Public Records of Hays County, Texas (the “**Declaration**”). The Regime has been established upon certain real property in Hays County, Texas, as more particularly described on Exhibit A to the Declaration (the “**Property**”).

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 OLD FITZHUGH TOWNHOMES, WHICH INCLUDES THE PROJECT DOCUMENTS, BEING COPIES OF: (I) THE DECLARATION; (II) THE CERTIFICATE OF FORMATION OF OLD FITZHUGH TOWNHOME COMMUNITY, INC., A TEXAS NON-PROFIT CORPORATION (THE “ASSOCIATION”); (III) THE BYLAWS OF THE ASSOCIATION; (IV) THE COMMUNITY MANUAL OF THE ASSOCIATION; (V) THE RULES AND REGULATIONS OF THE ASSOCIATION; (VI) THE PROJECTED BUDGET OF THE ASSOCIATION; AND (V) THE LIMITED WARRANTY (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 CONTRACT. At Closing (as defined below), Seller may require Buyer sign a certificate acknowledging Buyer's receipt of the Condominium Information Statement.

BUYER:____
SELLER:____

If Chapter 207 of the Texas Property Code, titled "Disclosure of Information by Property Owners Association", applies to this transaction, the Condominium Information Statement constitutes the "resale certificate" required by Chapter 207, although this is not a resale transaction and the Declarant rather than the Association issues the Condominium Information Statement.

1.05. CHANGES TO CONDOMINIUM INFORMATION STATEMENT. 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 AND BUYER MAY TERMINATE THIS AGREEMENT WITHIN FIVE (5) DAYS AFTER RECEIVING A COPY OF SAME. IN THE EVENT BUYER TERMINATES THIS AGREEMENT WITHIN SUCH FIVE (5) DAY PERIOD, THE EARNEST MONEY AND ANY UPGRADE PAYMENT WILL BE RETURNED TO BUYER AND NEITHER SELLER NOR BUYER WILL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER. IN THE EVENT BUYER FAILS TO TERMINATE THIS AGREEMENT IN WRITING WITHIN SUCH FIVE (5) DAY PERIOD, BUYER SHALL BE CONCLUSIVELY DEEMED TO HAVE CONSENTED TO THE AMENDED, MODIFIED, CHANGED OR REVISED CONDOMINIUM INFORMATION STATEMENT AND/OR CONDOMINIUM DOCUMENTS, AS APPLICABLE, AND THIS AGREEMENT WILL REMAIN IN FULL FORCE AND EFFECT.

II.

PURCHASE PRICE; EARNEST MONEY; FINANCING

2.01. Purchase Price. The Purchase Price 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. Earnest Money. In order to secure Buyer's performance under this Agreement, Buyer has deposited the Earnest Money with the Title Company. The Earnest Money will be applied as a credit against the Purchase Price at Closing.

2.03 Financing. If Buyer is obtaining an extension of credit to pay any portion of the Purchase Price, Buyer shall be solely responsible for doing so and acknowledges that Seller is neither providing such financing nor paying any of the costs associated therewith. If Buyer is obtaining an extension of credit to pay any portion of the Purchase Price, Buyer will provide Seller with evidence of loan approval as provided below. Unless the financing box has been marked under the Method of Purchase section of the Basic Terms, the purchase and sale of the Unit shall not be conditioned upon Buyer's ability to obtain a loan to finance all or any portion of

BUYER:____
SELLER:____

the Purchase Price and Buyer hereby represents and warrants to Seller that, at Closing, Buyer will have sufficient cash to complete the purchase of the Unit. Buyer agrees that, upon Seller's request, Buyer will provide to Seller copies of financial statements of Buyer or other documents which set forth Buyer's income, assets, liabilities, credit history or like information which evidence that Buyer has sufficient resources to acquire the Unit at Closing.

2.04 Evidence of Financing Approval. If Buyer will finance all or any portion of the Purchase Price, Buyer agrees to apply for such loan (the "**Purchase Loan**") on or before seven (7) days from the Effective Date of the Agreement, to notify Seller or the Listing Broker, in writing, when Buyer has applied for the Purchase Loan, and to cooperate fully with the third-party lender to finalize the Purchase Loan. In the event Buyer fails to apply for the Purchase Loan within the time period required, or fails to cooperate with the third-party lender in obtaining final approval of the Purchase Loan, Buyer shall be in default under the terms and provisions of the Agreement. Seller or the Listing Broker may contact the third-party lender selected by Buyer from time to time regarding the status of the Purchase Loan. Buyer's "ability to obtain a loan" means that Buyer is qualified to receive a loan based upon the third-party lender's customary and standard underwriting criteria. If Buyer has the ability to obtain the Purchase Loan, Buyer hereby covenants and agrees that, at Closing, Buyer will have sufficient cash to complete the purchase of the Unit. Buyer further covenants and agrees that Buyer is not required to sell or lease other real property in order to acquire the Unit at Closing.

Buyer will provide Seller with written evidence of Purchase Loan approval on or before thirty (30) days from the Effective Date.

III.

UNIT COMPLETION

3.01. Specifications for Unit Completion. The Unit shall be constructed substantially in conformance with the Standard Specifications Addendum attached hereto.

3.02. Upgrades. Seller shall provide Buyer a list of available upgrade finish items and options, if any ("**Upgrades**"). If Buyer desires any Upgrades, Buyer and Seller shall execute an Upgrade Addendum, attached hereto, which will become a part of this Agreement specifying the Upgrades to the Unit and all costs and expenses of the Upgrades chosen by Buyer (the "**Upgrade Payment**"). Upon executing the Upgrade Addendum, the Purchase Price shall be automatically increased to include both the Base Price and the Upgrade Payment. Thirty percent (30%) of the Upgrade Payment shall be payable to Seller and due upon the execution of the Upgrade Addendum. The remaining seventy percent (70%) of the Upgrade Payment will be due at Closing. The Upgrade Payment made to Seller for Upgrades represents payments made to purchase and incorporate the chosen Upgrades into the Buyer's Unit and does not constitute Earnest Money. **IF BUYER TERMINATES THIS AGREEMENT OR DEFAULTS UNDER THIS AGREEMENT, BUYER WILL NOT BE ENTITLED TO ANY REFUND OF THE UPGRADE PAYMENT.** If Buyer fails to execute the Upgrade Addendum and contemporaneously tender the Upgrade Payment to Seller, Seller will complete the Unit in accordance with the Standard Specifications Addendum and Buyer will be obligated to purchase the Unit so finished. All listed

BUYER:____
SELLER:____

prices on the Upgrade Addendum are subject to change and may only be relied upon through execution of the Upgrade Addendum.

3.03. Materials, Equipment and Fixtures. Seller reserves the right to substitute material, equipment, and fixtures of similar appearance, quality or design should Seller be unable to obtain the material, equipment, and/or fixtures set forth in the Standard Specifications Addendum or the Upgrade Addendum through unavailability, model changes, or any other circumstances. Buyer understands and agrees that materials used in construction and completion may vary somewhat from any samples provided, and that such variations are inherent in manufacturing and shall not be grounds for any refusal by Buyer to accept the Unit in its actual as-built configuration.

3.04. Certificate of Occupancy. Seller will be responsible for obtaining a Certificate of Occupancy from the City of Austin for the Unit prior to Closing. Buyer understands and agrees that a Certificate of Occupancy for the Unit is conclusive and binding evidence that the Unit meets or exceeds all building code requirements.

3.05. Insulation. The type, thickness and R-Value of the insulation to be installed in each part of the Unit is set forth on the Insulation Addendum attached hereto.

3.06. Inspection. At least thirty (30) 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 and execute the Punch List Addendum attached hereto. Buyer acknowledges that Seller will exercise good faith efforts to complete the items specified on the Punch List Addendum on a timely basis as soon as reasonably possible prior to Closing; provided, however, that any repairs, touch ups or adjustments 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 and agrees that Buyer's possession of the Unit, Buyer's failure to inspect the Unit on the Inspection Date, and/or Buyer's failure to complete the Punch List Addendum during the inspection of the Unit constitutes Buyer's acceptance of 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, any condition or circumstances existing on or in the vicinity of the Unit, except as may be covered by any express warranty under this Agreement, if any.

IV.

TITLE AND SURVEY

4.01. Title Commitment. Within ten (10) days from the Effective Date, Seller will cause 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 "**Owner's 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

BUYER:____
SELLER:____

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 Owner's Policy.

4.02. Survey. Buyer acknowledges that Seller has provided to Buyer a copy of the Declaration which includes, among other things, the plats and plans pertaining to the Unit (which, for purposes of this Agreement, are referred to as the "Survey"). Buyer further acknowledges that the description of the Unit is subject to change prior to Closing in accordance with the terms and provisions of the Condominium Documents. 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.

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. 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 and any Upgrade Payment paid by Buyer 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; and (d) any exceptions applicable to the Property which have no material adverse effect on the use of the Unit for residential purposes.

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". The Closing shall occur on or before the Closing Date set forth in the Basic Terms of this Agreement at the Title Company's offices or another location acceptable to the parties; provided, however, that Seller shall be entitled to extend the Closing Date for: (i) no more than three (3) thirty (30) day periods upon providing written notice to Buyer for each thirty (30) day extension; or (ii) for the duration of any *force majeure* event (as defined in Section 9.07) by providing written notice to Buyer including a general description of the event and the estimated duration. If Buyer wishes to delay or reschedule Closing, Seller may require Buyer to pay \$50.00 for each calendar day of the extension.

5.02. Seller's Closing Obligations. At the Closing, Seller will, at Seller's sole cost and expense, unless otherwise provided:

BUYER:____
SELLER:____

- (a) cause the Title Company to issue and deliver to Buyer a title commitment by the terms of which the Title Company agrees to issue to Buyer an owner's policy of title insurance;
- (b) execute and deliver to Buyer a deed on Seller's prescribed form;
- (c) deliver physical possession of the Unit to Buyer;
- (d) execute and deliver to Buyer the Limited Warranty (defined below);
- (e) deliver evidence of Seller's authority to act in form reasonably satisfactory to Buyer and the Title Company; and
- (f) execute and deliver to Buyer a "non-foreign" affidavit sufficient to establish that withholding of tax is not required in connection with this transaction.

5.03. Buyer's Closing Obligations. At the Closing, Buyer will: (a) deliver funds equal to the Purchase Price to the Title Company for disbursement in accordance with the terms and provisions of this Agreement; (b) execute and deliver the Limited Warranty to Seller; and (c) deliver such evidence, as the Title Company may reasonably require for Closing, of Buyer's authority to act hereunder as Buyer.

5.04. 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: (i) expenses incident to completing the Unit excluding Upgrades (defined in *Section 3.02* above); (ii) releases of existing liens, if any; tax statements; preparation of deed; (iii) and all other expenses required by this Agreement to be paid by Seller.
- (b) Buyer's Expenses include: (i) all premiums for the Owner's Policy and any endorsements thereto, (ii) all premiums for the mortgagee's policy of title insurance ("**Mortgagee's Policy**") and any endorsements thereto; (iii) recording fees and escrow fees; (iv) an amount equal to two 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 (v) all other expenses required by this Agreement to be paid by Buyer.
- (c) Buyers Share of Insurance Premium. In addition, Buyer acknowledges that Seller, in its capacity as the "Declarant" pursuant to the Declaration, and for the benefit of the Association, has paid for and obtained certain insurance on behalf of the Association in accordance with the Declaration and Section 82.111 of the Texas Uniform Condominium Act.

BUYER:____
SELLER:____

At Closing, Buyer will reimburse Seller the portion of the insurance premium paid by Seller for the Unit. Such amount is determined by dividing the insurance premium paid by Seller by the number of units covered by such insurance. Such reimbursement amount is to be retained by Seller and not remitted to the Association.

- (d) Buyer's Other Expenses. If Buyer is financing the purchase of the Unit with a mortgage loan or an exchange of real property, Buyer pays any expense incident to the financing, including without limitation the Mortgagee Policy. This subparagraph does not apply to an all cash transaction.
- (e) General. Current property taxes, governmental assessments, and assessments for common expenses levied pursuant to the Condominium Documents and attributable to the Unit will be prorated through Closing Date.

5.05. Tax Proration. 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 Hays County Tax Assessor, 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 Hays County Tax Assessor, Buyer will be charged for a prorated portion of the current year's estimated property taxes attributable to the Unit. To calculate the current year's estimated property taxes attributable to the Unit, the Title Company will multiply the Purchase Price by the mill rates then in effect for all applicable taxing jurisdictions (the "**Estimated Unit Tax**"). The Estimated Unit Tax will be prorated between Seller and Buyer as of the Closing Date and held by the Title Company in trust until Seller receives the tax statement, which Seller or the Title Company, as applicable, will timely pay. Buyer and Seller agree to reconcile the difference between the Estimated Unit Tax and the actual tax statement for the Unit, for which Seller will refund to Buyer any prorated overpayment, and Buyer will pay Seller any prorated shortfall.

5.06. Condemnation; Destruction. If, prior to Closing, any governmental or other entity having condemnation authority institutes an eminent domain proceeding with regard to all or any part of the Unit and the proceeding is not dismissed at least ten (10) days prior to Closing, Buyer will be entitled either to terminate this Agreement by giving written notice to Seller or to waive this right of termination and receive all condemnation proceeds. If any portion of the Unit is damaged or destroyed prior to Closing, then Buyer may, within ten (10) days after receipt of written notice of the damage or destruction, elect either to terminate this Agreement or to proceed to Closing, in which case Seller will assign to Buyer all insurance proceeds payable for the damage to the Unit at Closing, and the sale will be closed without Seller's repairing the damage. If this Agreement is terminated under this Section, the Earnest Money and any Upgrade

BUYER:____
SELLER:____

Payment paid by Buyer will be returned to Buyer and, thereafter, neither Buyer nor Seller will have any further rights or obligations hereunder.

VI.

LIMITED WARRANTY

6.01. Warranty. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT:

(a) BUYER ACKNOWLEDGES AND AGREES THAT THE ONLY EXPRESS WARRANTY GIVEN BY SELLER TO BUYER RELATING TO THE UNIT AND/OR ANY OTHER IMPROVEMENTS IS THAT LIMITED WARRANTY DESCRIBED IN THE ATTACHED **LIMITED WARRANTY ADDENDUM** WHICH IS INCORPORATED HEREIN BY REFERENCE FOR ALL PURPOSES.

(b) BUYER AGREES AND UNDERSTANDS THAT BY SIGNING THIS AGREEMENT BUYER IS WAIVING ANY CLAIM OR CAUSE OF ACTION 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 ADDENDUM** INCORPORATED BY REFERENCE INTO THIS AGREEMENT.

(c) BUYER ACKNOWLEDGES THAT THE TERMS OF SUCH **LIMITED WARRANTY ADDENDUM** ARE CLEAR, SPECIFIC, AND SUFFICIENTLY DETAILED TO ESTABLISH THE ONLY STANDARDS OF CONSTRUCTION WHICH SELLER IS OBLIGATED TO MEET.

(d) BY SIGNING BELOW, BUYER ACKNOWLEDGES THAT BUYER HAS REVIEWED THE ATTACHED **LIMITED WARRANTY ADDENDUM** AND LIMITED WARRANTY DESCRIBED THEREIN.

(e) Except for the Limited Warranty described in the attached **Limited Warranty Addendum**, the sale of the Unit by Seller to Buyer shall be "AS IS", "WHERE IS", and with "ALL FAULTS."

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 AIR CONDITIONERS, HEATING UNITS, WATER HEATERS, 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:____
SELLER:____

VII.

DISCLOSURES

7.01. **Disclosures**. Certain disclosures regarding the Unit and the Regime are set forth in *Article 4* of the Declaration and are hereby incorporated herein by reference (collectively, the “**Disclosures**”). Buyer acknowledges that the Disclosures apply to the Unit and that Buyer has read the Disclosures.

7.02. **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. Membership rights in the Association are held by the Board 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 been recorded in the Official Public Records of Hays County, Texas. Copies of the restrictive covenants and dedicatory instrument may be obtained from the county clerk (after they are recorded.) You are obligated to pay assessments to the Association. The amount of each assessments is subject to change. Your failure to pay assessments to either association could result in a lien on and the foreclosure of your property.

7.03. **BROKER DISCLOSURE. BUYER ACKNOWLEDGES THAT L. H. HARDY, JR, PRESIDENT AND SHAREHOLDER OF SELLER, IS A LICENSED TEXAS BROKER AND MAY RECEIVE A COMMISSION PURSUANT TO THE SALE OF THE UNIT.**

VIII.

REMEDIES; DISPUTE RESOLUTION

8.01. **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 and the Upgrade Payment paid by Buyer to Seller, 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 is Buyer’s sole and exclusive remedy in the event Seller fails or refuses to comply with Seller’s obligations under this Agreement.

8.02. **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: (i) terminate this Agreement by

BUYER:____
SELLER:____

written notice to Buyer with Seller being entitled to retain, as damages, Earnest Money and any the Upgrade Payment; **OR** (ii) enforce specific performance of Buyer's obligations under this Agreement. 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.

8.03. 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 8.03* will survive the Closing or earlier termination of this Agreement.

8.04. 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 and the Upgrade Payment 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) Association as Exclusive Party for Certain Claims. The Association is the exclusive representative of all Unit owners for the assertion of any claim and/or cause of action related to the common elements (including limited common elements) within the Regime. The Buyer hereby appoints the Association to exclusively act as its agent and attorney-in-fact (which power of attorney is coupled with an interest and shall be irrevocable) with respect to the above referenced claims and/or causes of action including the right to compromise and settle same. Buyer shall not assert a claim or cause of action relating to the common elements (including the limited common elements) except through the Association. As more specifically provided in Article 20 of the Declaration, certain claims, including claims brought by the Association 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 8.04* survive Closing or termination of this Agreement

IX.

MISCELLANEOUS PROVISIONS

9.01. Entire Agreement. This Agreement contains the entire agreement of the parties. There are no other agreements, oral or written, between the parties regarding the sale and purchase of the Unit and this Agreement can be amended only by written agreement signed by both of the parties.

9.02. Binding Effect. This Agreement will inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties hereto.

9.03. 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.

9.04. 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 purchaser.

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

9.06. Assignment. This Agreement is personal to Buyer, who may not assign this Agreement without Seller's prior written consent, which consent may be withheld by Seller for any reason. Seller's refusal to consent to an assignment will not entitle Buyer to terminate this Agreement or give rise to any claim against Seller for damages. Seller may assign its rights under this Agreement.

9.07. 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, 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.

9.08. RELEASE & INDEMNITY FOR CONSTRUCTION HAZARDS. Buyer acknowledges that potential safety and health hazards may be present during construction on the Property and agrees that Buyer shall not be permitted access to the construction site without express written permission by Seller. If such access is requested and granted, Buyer agrees that Buyer does so at Buyer's own risk. **BUYER RELEASES, INDEMNIFIES, AND HOLDS SELLER**

HARMLESS FROM ALL CLAIMS, DEMANDS, OR CAUSES OF ACTION ARISING IN FAVOR OF BUYER OR ANY THIRD PARTY AFFILIATED WITH BUYER ON ACCOUNT OF BODILY INJURY, DEATH, OR DAMAGE TO PROPERTY IN ANY WAY OCCURRING OR INCIDENT TO THE CONSTRUCTION CONDITION OF THE PROPERTY AND/OR THE UNIT. BUYER GRANTS THIS RELEASE AND INDEMNITY TO SELLER REGARDLESS OF WHETHER SELLER OR ITS AGENTS OR EMPLOYEES ARE PARTLY OR SOLELY NEGLIGENT. This provision survives Closing or termination of this Agreement.

9.09. Brokerage and Agency. Seller shall pay a real estate commission to Listing Broker pursuant to a separate commission agreement based on the Base Price. No commission shall be paid based on the Upgrade Payment or any amounts to be paid by Buyer other than the Base Price. In no event shall Seller have any obligation to pay any real estate commission except in the event of the closing of this transaction in accordance with the terms of this Agreement. Except as may otherwise be provided, the Listing Broker has represented Seller in this transaction. If Buyer worked with or was represented by another cooperating broker, a disclosure of such brokerage relationship set forth in the Broker Addendum shall be a part of this Agreement and such broker shall execute this Agreement as the "Other Broker." If no Buyer's Broker information is indicated in the Basic Terms or in an attached Broker Addendum, Buyer acknowledges and agrees no such brokerage agreement exists and that Buyer is solely responsible for protecting Buyer's interests and no broker representing or purporting to represent Buyer shall be entitled to any portion of the Listing Broker's commission. **BUYER ACKNOWLEDGES THAT L. H. HARDY, JR, PRESIDENT AND SHAREHOLDER OF SELLER, IS A LICENSED TEXAS BROKER.** L. H. Hardy, Jr. may provide brokerage services to the Seller and receive a commission pursuant to the sale of the Unit. In such instances, Hardy will be designated in the Broker Addendum as the Listing Broker and will represent Seller only as Seller's agent.

Except as set forth in this Section or on the Broker Addendum attached to this Agreement, Buyer and Seller represent and warrant to the other that each party has not dealt with another broker, agent, or finder in connection with this transaction and Buyer and Seller covenant and agree, each to the other, to indemnify and hold each other harmless from any and all losses, damages, costs and expenses including, but not limited to, attorneys' fees and court costs that may be incurred or suffered as a result of any claim for any fee, commission, or similar compensation with respect to this transaction made by any person or entity and arising through the actions of the indemnifying party, whether or not such claim for any fee, commission, or similar compensation with respect to this transaction made by any person or entity is meritorious.

BY 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 OBTAINS A POLICY OF TITLE INSURANCE COVERING THE UNIT.

BUYER:____
SELLER:____

9.10. 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*** as the Listing Broker and Other Broker, if applicable. 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.

9.11. Environmental Disclaimer. Seller makes no warranties, express or implied, about present or future environmental conditions at the Property or on the Unit, including but not limited to pollution of air, water, or soil from any source, and exposure to electric and magnetic fields. Seller disclaims all liability for any type of damage -- whether direct, indirect, or consequential -- which the Property or the Unit or the inhabitants thereof may suffer because of any present or future environmental condition. If Buyer is concerned about environmental conditions, Buyer should consult with an environmental specialist of Buyer’s choice before signing this Agreement. This provision survives Closing or termination of this Agreement.

9.12. 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.

9.13. Survival of Provisions. All terms, conditions, representations, and provisions contained herein shall extinguish upon closing and delivery of the deed, except for *Section 3.06 (Inspection)*, *Section 5.05 (Tax Proration)*, *Section 6.01 (Warranty)*, *Section 7.01 (Disclosures)*, *Section 8.03 (Dispute Resolution)*, *Section 9.01 (Entire Agreement)*, *Section 9.04 (Unsold Units)*, *Section 9.05 (Declarant’s Rights)*, *Section 9.07 (Force Majeure)*; *Section 9.08 (Release and Indemnity)*, *Section 9.09 (Brokerage and Agency)*, *Section 9.10 (Disclaimer)*, *Section 9.16 (Miscellaneous Provisions)*, *Section 9.17 (Utility Related Matters)*, the Punch List Addendum, the Limited Warranty Addendum and the Arbitration Addendum, which sections and addendums will survive indefinitely.

9.14. Termination Notice. Any notice of termination of this Agreement to be given by one party to another must be in writing and must be hand-delivered with signed receipt or mailed by certified mail return receipt requested. Notices to Seller must be sent to Seller's address as stated above. A notice sent to Buyer's real estate agent constitutes delivery to Buyer.

9.15. Binding Agreement. This Agreement is binding on Seller only if signed by an authorized officer or agent of Seller on the signature line below. After signed by Buyer and

BUYER:____
SELLER:____

Seller, this is a legally binding contract that may not be cancelled except as expressly provided in this Agreement. Buyer is advised to **READ IT CAREFULLY**. If Buyer does not understand the effect of this Agreement, Buyer is advised to consult an attorney **BEFORE** signing. Sales agents and real estate brokers may not give legal advice.

9.16. 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.

9.17. Utility Related Matters. Buyer shall be responsible, at Buyer's sole cost and expense, for all utility deposits, account transfer fees, and subsequent user 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.

9.18. CREDIT REPORT. BUYER AUTHORIZES SELLER TO ORDER, OBTAIN AND REVIEW A CREDIT REPORT RELATING TO BUYER.

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

- | | | |
|-------------------------------------|---------------------------------|---|
| <input checked="" type="checkbox"/> | Broker Addendum | |
| <input checked="" type="checkbox"/> | Standard Specification Addendum | (Initialed by Buyer) |
| <input type="checkbox"/> | Upgrade Addendum | (Optional—Initialed by Buyer) |
| <input checked="" type="checkbox"/> | Insulation Addendum | (Initialed by Buyer) |
| <input checked="" type="checkbox"/> | Punch List Addendum | (Signed by Buyer Prior to Closing) |
| <input checked="" type="checkbox"/> | Limited Warranty Addendum | (Signed by Buyer) |

[SIGNATURE PAGE FOLLOWS]

SELLER:

ART INVESTMENT & MORTGAGE CO., a Texas corporation D/B/A LA VID URBAN HOMES

By: _____
L. H. Hardy, Jr., President

Date: _____

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

Gracy Title Company acknowledges receipt of this Agreement, executed and, if needed, initialed, by both Seller and Buyer this ____ day of _____, 20__.

GRACY TITLE CO.

By: _____

Printed Name: _____

Title: _____

BUYER: ____
SELLER: ____

BROKER ADDENDUM

Listing Broker, _____, has agreed to pay Other Broker (as defined below) _____ of the Purchase Price when the Listing Broker's fee is received. The Title Company is authorized and directed to pay the Other Broker from Listing 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: _____

LISTING BROKER:

L. H. Hardy, Jr., Hardy Realty

License No. 0262933

Listing Broker represents:

Seller only as Seller's Agent

Listing Associate's Name

Listing Associate's Telephone

P.O. Box 161775
Austin, Texas 78716

Facsimile

email: _____

STANDARD SPECIFICATION ADDENDUM

(TO BE ATTACHED BY SELLER)

UPGRADE ADDENDUM
(TO BE ATTACHED BY SELLER)

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. This information was furnished to Seller by the installer and/or manufacturer of the insulation.

- (a) The exterior 2x4 walls of improved living areas are insulated with UNFACED fiberglass batt insulation to a thickness of 3 ½ inches. The through wall R-Value equals 13.
- (b) The exterior 2x6 walls of improved living areas are insulated with UNFACED fiberglass batt insulation to a thickness of 5 ½ inches. The through wall R-Value equals 19.
- (c) The party walls have 2 layers of 3 ½ inches of unfaced R-11 fiberglass batts. The through wall assembly yields an R-Value of 22. While, party walls are technically not required to be insulated for thermal purposes, this property has the material installed for sound control.
- (d) The attic is insulated with 12 inches of blow in fiberglass insulation which has a R-Value of 30.
- (e) The under plywood decking and exposed floors are insulated with UNFACED fiberglass batt insulation to a thickness of 5 ½ inches. The through wall R-Value equals 19.

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

PUNCH LIST ADDENDUM

(To be signed Prior to Closing)

Buyer: _____

Unit: _____

Inspection Date: _____

APPROVAL: The undersigned Buyer, after thoroughly inspecting the improvements within the Unit (the "**Improvements**"), find them fully completed pursuant to the Agreement of Sale and Purchase by and between Buyer and Seller and satisfactory, except for the items specifically noted below. Buyer acknowledges and agrees that Buyer's possession of the Unit constitutes Buyer's acceptance of 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, any condition or circumstances existing on or in the vicinity of the Unit, except as may be covered by any express warranty under this Agreement, if any.

BUYER 1: _____
Date Signed: _____

BUYER 2: _____
Date Signed: _____

PUNCH LIST ITEMS TO BE COMPLETED:

Seller Representative: _____
Date Signed: _____

LIMITED WARRANTY ADDENDUM

Buyer: _____

Unit: _____

THE ONLY EXPRESS WARRANTY GIVEN BY SELLER TO BUYER RELATING TO THE PROPERTY IS THAT CERTAIN EXPRESS "LIMITED WARRANTY" IN THE FORM ATTACHED HERETO.

IMPLIED WARRANTIES, IF ANY, ON ANY "CONSUMER PRODUCTS" (as defined in 15 U.S.C. 2301 through 2312) COVERED BY THE WRITTEN LIMITED WARRANTY GIVEN BY SELLER, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE LIMITED IN DURATION TO A TERM OF ONE YEAR FROM THE DATE OF THE DEED CONVEYING THE PROPERTY FROM SELLER TO BUYER.

BUYER AGREES AND UNDERSTANDS THAT BY SIGNING THIS ADDENDUM BUYER IS WAIVING ANY CLAIM OR CAUSE OF ACTION UNDER ANY THEORY OF IMPLIED WARRANTY OF GOOD AND WORKMANLIKE CONSTRUCTION, TO THE EXTENT THAT IT EXISTS IN TEXAS, AND THAT ANY SUCH IMPLIED WARRANTY IS EXPRESSLY REPLACED BY THE TERMS OF THE EXPRESS WRITTEN LIMITED WARRANTY ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE. 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.

AT CLOSING, SELLER WILL ASSIGN TO BUYER ALL ASSIGNABLE MANUFACTURER WARRANTIES ON EQUIPMENT AND CONSUMER PRODUCTS INCORPORATED INTO THE IMPROVEMENTS SUCH AS AIR CONDITIONERS, HEATING UNITS, WATER HEATERS, 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.

It is expressly agreed between Seller and Buyer that the deed to be executed and delivered by Seller to Buyer upon closing will contain the following terms:

Grantor makes this conveyance and Grantee accepts this conveyance with the following limitations concerning warranties, express or implied: The only express warranty given relating to construction of the improvements to this property is that express written limited warranty attached delivered to Grantee by separate document. Any implied warranties on any "consumer products" (as defined in 15 U.S.C. 2301 through 2312) covered by said express written limited warranty are limited to a duration of one year from the date of this deed. To the fullest extent permitted by applicable law, any implied warranty of construction in a good and

workmanlike manner is expressly disclaimed and excluded. Nothing herein may limit the warranty of Grantor as to the title of the property described herein. Except as to the foregoing express limited warranty and any implied warranties on consumer products, there are no other warranties or representations, express or implied, as to the property and improvements thereon, including, but not limited to a warranty of merchantability and/or workmanship, and all such warranties are expressly disclaimed by Grantor and waived by Grantee to the fullest extent allowed by law. If applicable law does not permit such disclaimer, then any implied warranties are limited in duration to two years from the date of this deed, unless prohibited by applicable law.

BY SIGNING THIS LIMITED WARRANTY ADDENDUM, BUYER ACKNOWLEDGES THAT BUYER HAS REVIEWED THE WRITTEN "LIMITED WARRANTY" ATTACHED HERETO.

BUYER 1:

Date Signed:_____

BUYER 2:

Date Signed:_____

OLD FITZHUGH TOWNHOMES

LIMITED WARRANTY

Buyer: _____

Unit: _____

This limited warranty ("**Limited Warranty**") constitutes the sole and only warranty regarding the labor and materials used in the construction of above-described Unit pursuant to the provisions of that certain Old Fitzhugh Townhomes Agreement of Sale and Purchase (herein so called) between Buyer and Seller.

Seller warrants that all materials incorporated in and made a part of the Unit shall remain free from defect in workmanship and quality for a period of one (1) year from the date of Closing. Seller represents that Seller will cause to be remedied, by repair or replacement, any structural defects in the improvements constructed on the Unit which appear within one (1) year after the date of Closing and which result from faulty material or workmanship, provided that Buyer gives Seller written notice of any such defect within ten (10) days after Buyer's discovery of the defect. Any such notice shall be addressed to Seller at the address set forth below or such other address for notice furnished to Buyer in writing. Buyer's sole remedy (in lieu of all remedies implied by law or otherwise) against Seller in connection with such defects shall be to require Seller to correct the defect in material or workmanship. Seller shall determine, in Seller's sole discretion, whether any defect covered by this Limited Warranty shall be repaired or replaced.

This Limited Warranty does not extend or relate to any items of tangible personal property in the Unit (whether or not such property is attached to or installed in the Unit), including, but not limited to, any range, oven, range hood and fan, trash compactor, garbage disposal, ceiling fans, dishwasher, clothes washer and dryer, refrigerator, hot water heaters, components of the heating system and any fire, alarm or other life safety or security system installed in or servicing the Unit. Seller hereby assigns to Buyer any unexpired warranties Seller has received from the manufacturers of such tangible personal property, to the extent such warranties are assignable. Seller shall not be responsible for the performance of any such manufacturer under the manufacturer's warranties.

WITH REGARD TO ANY APPLIANCES OR OTHER ITEMS OF TANGIBLE PERSONAL PROPERTY, SELLER DISCLAIMS AND BUYER RELEASES SELLER FROM ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

SELLER MAKES NO WARRANTY OR REPRESENTATION OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF WORKMANLIKE CONSTRUCTION, HABITABILITY, COMPLIANCE WITH BUILDING CODES, DESIGN, CONDITION, OR QUALITY AS TO THE REAL ESTATE OR THE PROPERTY, AND SELLER HEREBY EXPRESSLY DISCLAIMS ANY SUCH REPRESENTATIONS OR WARRANTIES.

SELLER SPECIFICALLY DISCLAIMS, AND BUYER SPECIFICALLY RELEASES SELLER FROM, ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES TO ANY

BUYER: _____

SELLER: _____

PERSON OR THE PROPERTY, THE REAL PROPERTY UNDERLYING THE PROJECT, THE PROJECT, OR ANY OTHER REAL OR PERSONAL PROPERTY, RESULTING FROM A DEFECT.

Seller makes no representation or warranty concerning any geological or environmental matters and specifically excludes geological and environmental matters from any warranties given under this Agreement.

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 this Limited Warranty, Buyer assumes the risk of damage occurring on or in the Unit after the Closing, regardless of the cause.

This Limited Warranty gives Buyer specific legal rights and Buyer may also have other rights under Texas law.

The following are limitations to or exceptions from the warranty:

A. All claims under this warranty MUST BE MADE IN WRITING and delivered to Seller. The written notice must identify the nature of the defect, the date the defect first occurred, the loss or damage claimed, the times that the Seller may have access to the Unit to inspect the loss or damage and, if necessary, take corrective action.

Buyer must:

- 1) Contact Seller, Seller, or its representatives, in the most expeditious manner possible;
- 2) Do everything within the Buyer's power to mitigate any damage being caused by the problem;
- 3) Mitigation must be accomplished with prudence and with due regard for relative costs. Seller shall only bear those Buyer-incurred costs that are reasonable and competitive in the opinion of Seller.

B. Seller must be given reasonable time to correct defects. Buyer acknowledges that items originally supplied through subcontractors and vendors are warranted through Seller by the subcontractors and vendors. Service by these third parties is not one hundred percent (100%) under the control of Seller and may not always be as prompt as desired by Buyer or Seller.

C. No wood items (other than doors, windows, wood cabinets and countertops) are guaranteed against warping, splitting, shrinking or other characteristics known to be common to wood at this particular locale and climate, unless Seller was negligent in its use, storage or installation of said wood items.

D. Cosmetic cracks in sheetrock, wood trim, caulking, or tile grout joints caused by the normal drying out and settling of wood frame construction are not covered under this warranty. Cosmetic cracks or separation in the surface of ceramic tile installed directly on to the concrete foundation or wood floor decking caused by normal expansion and contraction of the

foundation and framing are not covered under this warranty. Exposed concrete is not warranted against cosmetic cracking or variations in color.

E. All items which were contracted for directly by Buyer, whether administered by Seller or not, are NOT warranted by Seller.

F. Any item which is a change order to the standard specifications but are performed at cost, without profit or at minimal charge as an accommodation to Buyer, carry no warranty by Seller.

G. This Limited Warranty is personal to Buyer and may not be assigned. No assignment shall be permitted without the prior written consent of Seller.

H. The introduction of excessive water into the Unit must not occur.

I. Normal settling of the Unit within tolerances generally acceptable under the building standards in effect for the geographic area in which the Unit is situated.

*NOTE: This Limited Warranty has been prepared to comply with the disclosure requirements of the federal Magnuson-Moss Warranty - Federal Trade Improvement Act (15 U.S.C. § 2301, as amended).